Class 'B'

File No.

MYSORE GOVERNMENT SECRETARIAT

Notes Correspondence/Collection

Department.....Section.....

Subject :—

Earlier References :— (LD 9 LSR 66.)

Late References :—

-1-8888

17-9-65

30-6-66

(Classification A/B/C)

Notes Pages.....

Correspondence Pages.....

For/Not for section Note Book

To be destroyed after.....7.....

B. N. Sastry

Under Secretary to Government.

Note Continuation Sheet

Subject Re: Levy of Water Rate and Betterment Contribution. File No. PWD 33 LBW 64.

Reference and markings	Notes and Orders.	Para Numbers

604/LAW VI&/65:

LAW DEPARTMENT.-

The amendment of section 10 approved by the Cabinet can be incorporated in the Draft Ordinance. But as regards the amendments relating to levy of betterment contribution, certain ~~xxxxx~~ clarifications are required before the amendments can be drafted. 13

It may be noticed that the provisions made in sections 2, 3, 4, 5 and 6, as amended by ~~the~~ Mysore Act 8 of 1964, are deemed to be in force with effect from the 1st day of October 1957. The decision of the Cabinet is that the basic betterment contribution should be fixed at Rs.400/- per acre and the special benefit betterment contribution upon the lands should be fixed at Rs.200/- per acre for ~~(wet)~~ (wet) (paddy) cultivation and Rs.400/- per acre for sugarcane cultivation. By virtue of sub-section (1) of section 3 of the Act, the contribution is payable in respect of lands benefited by irrigation works constructed on date not earlier than certain dates specified in that section. Sub-section (2) empowers the prescribed officer to determine the dates of commencement and completion of construction, etc., for any irrigation work and the lands which, in his opinion, are benefited by such irrigation work. The dates of commencement and completion of irrigation works to be determined 14

p.t.o.

Reference and markings	Notes and Orders.	Para Numbers

by the prescribed officer may vary in respect of different lands and may relate to any period after 1944, 1947 or 1950. The nature of provision to determine the liability for special ~~betterment~~ benefit contribution in respect of lands benefited at the time when the irrigation work was completed will have to be clarified. Further, it may be noticed that according to explanation I to sub-section (1) of section 3, the land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed provided such non-enjoyment ~~xxxxxxxx~~ is due ~~only~~ solely to action or inaction on the part of the person or persons interested in such land. Consequently, in respect of benefited lands on which paddy or sugarcane could have been grown ~~the~~ and ~~that~~ the person concerned did not take the benefit, it would not be possible to levy the special benefit contribution. Since no period is specified during which paddy or sugarcane ~~is~~ should have been cultivated on the land, the special benefit contribution is presumably payable if paddy or sugarcane, as the case may be, has been cultivated on ~~that~~ the land in the year in which water is made available. If this is the intention the amendment will have to clearly indicate the position. Certain consequential ~~~~ amendments will also have to be made in sections 5 and 6. It is presumed that the intention is to levy the contribution even where the irrigation work was completed less than one batch of crops

Stitching space

Noting Continuation Sheet

Subject **Re: Levy of Water Rate and Betterment Contribution.** File No. PWD 33 LBW 65.

Reference and markings	Notes and Orders.	Para Numbers
1477/SSD 17.9.65		
LAW 604/VII/65	**The Public Works Department is requested kindly to clarify the points indicated above so** that the draft ordinance can be prepared.	15
	Deputy Secy P.W.D. (Irrigation)	
	Mrs 17/9/65 M. A. SRIKRISHNA, Draftsman & Ex-Officio Joint Secretary, Law Department.	
	For perusal of paras 13 to 15 of C/N of Law Department. As per Notification No.PWD 47 GIG 59 dated 20-8-1960 (Flagged 'R'), the Mysore Irrigation (Levy of Betterment contribution and Water Rates) Act, 1957 has come into force with effect from 1-9-1960.	16.
	As per Section 3 of the Act the Betterment Contribution is leviable on land which in the opinion of the prescribed officer is benefitted by the construction, restoration, expansion or alteration of any work by the Govt. whether after the commencement of this Act or at any time before such commencement but not earlier than;	17.
	(i) 1st January, 1944 in the Mysore area (ii) 1st January, 1947 in the Madras area (iii) 1st August, 1947 in the Hyderabad area. (iv) 1st January, 1950 in the Bombay area and in the Coorg District.	
	The recovery towards Betterment contribution and water rate Act will start from the next financial year (but not from the dates	18.

Sept Sgn Secy
Pl bring up
Ore 1979

Binding space

Note Continuation Sheet

Subject Levy of water Rate and Betterment Contribution

File No. P.W.D. 53.L.B.W.6.3

WD 014899—GPB —8,00,000—5-12-64

Reference and markings	Notes and Orders.	Para Numbers

mentioned above) since certain preliminary work regarding Notification etc. has been done by the concerned prescribed officer as per the Act. Law Department desires to have clarification regarding the nature of provision to determine the liability for special benefit contribution at the time when the irrigation work was completed.

This query of L.D. appears to be on the assumption that the special benefit contribution will be levied with retrospective effect from the dates mentioned in Section 3 and determination of the crop grown from that date on the irrigated lands would be difficult now after lapse of many years. It may be clarified to L.D. that it is not contemplated to recover the betterment contribution and special benefit contribution from that date, but the levy of Betterment contribution and special benefit contribution will be levied, in respect of such works completed on or after the dates specified in section 3 in different areas, and the actual recovery in 20 instalments will be made from the next financial year onwards since the preliminaries to give effect to this act will have been completed by then. 19.

Section 4 sub-section 3(b) specifies that the special benefit contribution shall be payable for a period of 20 years in respect of the benefitted lands and the special 20.

Stitching space

Note Continuation Sheet

Subject.....

File No. 4/52 33 68 25 65

Reference and markings	Notes and Orders	Para Numbers

is considered necessary, a discussion may be held according to the convenience of the Joint Secretary, Law Department. I will attend such a meeting.

Chandappa
22/9

Shri Sivaprakasa
Y.S. L.D.

OFFICIATING EX-OFFICIO JOINT SECRETARY
No. 1518/ISD
22 SEP 1965
LAW DEPARTMENT

Stitching space

Discussed with the Secretary, Public Works Department. (24

It is proposed to make provision for the levy of special benefit contribution on benefitted lands at the rate of Rs.200 per acre for wet (paddy) cultivation and at Rs.400 per acre for sugarcane cultivation. As stated by the Public Works Department the intention is to levy this contribution in instalments for a period of twenty years prospectively. This assumes that the same crop would be grown for a period of twenty years on any piece of land. But if in one year, paddy is grown and in the next year sugarcane is grown on the same land, the levy being a lumpsum amount to be paid in instalments, the amount cannot possibly be varied merely because the crop grown is different. There may also

D 014893—GP B—8,00,000—5-12-64

Reference and markings	Notes and Orders	Para Number

be cases where no crop is grown in any year. There may also be cases in which although paddy or sugar-cane can be grown by the water made available no crop is grown on the land. In such cases there could be no levy of special benefit contribution at all. Section 3 of the Act provides for the levy of tax called betterment contribution and consequently a tax payable should be determinable with some precision. If the contribution is relatable to ~~of~~ the crop grown on any land, it ~~is~~ would be difficult to fix the rate in circumstances indicated above. Consequently it would not be possible to determine the rate in a definite manner. The Public Works Department may therefore consider whether a provision now found in clause (b) of sub-section (2) of section 4 cannot be suitably modified by reducing the rate to fit in with the scheme approved by the Cabinet.

So far as the basic contribution is concerned it is proposed to ~~the~~ levy ~~of~~ contribution at the rate of four hundred rupees per acre ~~from~~ on all lands benefited by any irrigation work. The betterment contribution is as already stated declared to be a tax on the land. The word 'betterment' connotes that the land benefitted by the irrigation work has increased in value

(25

Stitching space

Levy of Betterment Contributions 5

Mysore Government Secretariat

[App. F. III 2

File No. PWD 33 LBW 64 of 196

1518/65

Serial No.

and strictly speaking the betterment contribution should have some relationship to the increased value of land. The levy of the same rate of contribution irrespective of the increase in value of the land can be questioned as being discriminatory since it has no relationship to the increase in value of the different benefited lands. A uniform levy of tax irrespective of the class of land was declared unconstitutional by the Supreme Court in A.I.R. 1961 S.C. 552.

LAW 678 D/VII/65

26) In certain writ petitions now pending before the High Court the validity of the levy of betterment contribution has been questioned. In Writ Petition No.431 of 1965 it is contended that the value of 25.39 acres of land of the petitioners ~~is~~ is Rs.14,600, but the basic contribution is Rs.12,987 and the special benefit contribution Rs.6498-75, the total contribution being Rs.19,480-25. If this contention is correct, the levy will be considered to be confiscatory. It is therefore necessary to fix an upper limit with reference to the increase in the market value while specifying the rate of contribution.

27) The P.W. Dept may consider these aspects also

~~Consider~~

J/2972/65

29/9/1965

Law Secy

MRS 29/9/65

M. A. SRIKRISHNA,
Draftsman & Ex-Officio
Joint Secretary, Law Department

28) Secy) P.W.D.)

29/9

R. SANJEEVALU,
Secy., Law Dept.

MRS 30/9/65

Limited PWD 33 LBW 1863

MRS

MYSORE GOVT. SECRET
No. 1929
30 SEP 1965
Spl. Section
RECEIPT & ISSUE

29) The above remarks of the Ld are in order. This may kindly be sorted 6D/50) and the Secy may kindly in this Kind remarks & orders

1/x

Notes.—Contn. Sheet

6/30/9

Serial No. 30

Regarding para 24 dealing with levy of Special Benefit contribution based on the crop grown on any land, the suggestion of the L.D. ~~regarding~~ for the adoption of the provision now found in clause(b) of sub-section 2 of section 4 may perhaps be modified by reducing the rates from Rs.25/- to Rs.20/- in respect of (b) (i); and by reducing from Rs.12½ to Rs.10/- per annum in respect of of (b) (ii).

(31) In para 25 ~~Regarding~~ ~~wherein~~ L.D. has opined that the levy of fixed basic Betterment contribution may not stand in view of the Supreme court decision. L.D. suggests instead of Basic contribution being a fixed amount it may have relationship with the increased/market value of the land and the rate of contribution varied between the upper and the lower limits. ~~Hence~~ L.D. suggests to consider this aspect of fixing the basic Betterment contribution in relation with the increased market value.

(31-a) In the original act of 1957 the amount of contribution had to be determined in respect of each of the lands after taking into account the increased in its capital value as estimated in the prescribed manner.

(32) It has been found in practice that the work involved in determining the contribution in accordance with the procedure laid down in the Act and the Rules made thereunder is considerable and complicated and that this has been responsible ~~fix~~ for slow progress of the work ~~combined~~ connected with the levy of Betterment contribution. It was considered that the rates of Betterment contribution may be specified in the Act itself and that the

WD-010154-GPB-PZS-8,00,000-1-10-61

References and markings	Notes and Orders.	Para Numbers

within the scope of the condition relating to the increase in value, or provision may be made requiring the party concerned to move the appropriate authority to fix the contribution in the light of the actual increase in value. Since the contribution is relatable to the increase in market value of the land, provision may have to be made to enable the persons concerned to have the question finally determined by a court of law. If, provisions on these lines are made in the Act, it may be possible to sustain the validity of the levy.

38

In this connection, it may be mentioned that in the year 1963, provision on similar lines had been suggested in a draft amendment Bill prepared by the Law Department. The Public Works Department may consider whether those provisions would be suitable.

2/10/65
(M.A.Srikrishna)
Joint Secretary,
Law Dept.

Secy, PW & E)

vide pages 63 11 ge/pa

39

After discussion a draft amendment Bill has been attempted, which may kindly be scrutinised.

(Chandappa Patel)
Secy, P.W & E Dept.
2/10/65

Shri M.A.Srikrishna
Joint Secy, Law Dept

40) The draft Bill appears to be satisfy the

Stitching space

the legal requirements. However, before it is finalised, in view of the writ Petitions pending in the High Court, it is desirable to consult the Advocate General. This may be done before the Bill is placed before the Scrutinising Committee for Consideration.

May
2/10/65
M. A. SRIRISHNA,
Draftsman Gr. II
Joint Secretariat, Law Department.

Secy,
P.W.Dept.

41

The Cabinet have decided at a meeting held on 20th August 1965 certain rates for levy of betterment contribution and water rates. These decisions involve amendment to the Mysore Irrigation (Levy of Betterment contribution and Water Rates) Act, 1957 as amended by the Act 8 of 1964. A draft amendment incorporating the decision of the cabinet was prepared and referred to the Law Department for scrutiny. So far as the water rates are concerned there is no difficulty in incorporating the decision in an amendment to the Act; but so far as the rates of betterment contribution are concerned, the Law Department is of the firm view that the rate of betterment contribution should have relationship to certain principles like rise in the value of the land benefited. They have also held the view that it would not be possible to sustain the provision, if made in regard to the special

Note Continuation Sheet

Subject..... File No.....9

Reference and markings	Notes and Orders.	Para Numbers

The subject was discussed with the Advocate-General on 7-10-1965 when the Secretary, Law Department, the Joint Secretary, Law Dept., the Deputy Secretary, Law Department, the Deputy Secretary, Finance Department and myself were present. The Advocate-General expressed certain doubts about the possibility of sustain certain provisions made in the draft amendment. He however promised that he would look into this question and offer his views very early which may be awaited.

(45) J.S. may kindly finalise in draft in the light of the discussions held on 11.10.65 & 12.10.65 CP

CHANDAPPA PATEL, 12/10/65
Secy., P.W. & Elecy. Dep:

Shri Srikrishna
J.S, L.D.

(46) Letter No. 5519/65-66, dated the 12th October 1965 from the Advocate General as regards the amendment to section 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, is placed in the file. In the light of the discussions with the Advocate General on 7-10-1965 and 11-10-1965 in respect of the provisions to be made for levy of betterment contribution in conformity with Constitution of India, a draft Bill was prepared which was scrutinised

Stitching space

WD 014899—GPB —8,00,000—5-64

Reference and markings	Notes and Orders.	Para Numbers

scrutinised at the meeting held at the residence of the Advocate General between 7 to 9 p.m. on 12-10-1965. The Advocate General ~~stated~~ suggested certain modifications in the draft, and subject to these modifications it was agreed that the draft Bill would be in conformity with the provisions of the Constitution of India.

Letter No. 5575/65-66, dated 13-10-1965 47
received from the Advocate General is also placed in the file.

The draft Bill as approved at the 48
meeting is also placed in the file. The P.W. Dept. may annex a statement of Objects & Reasons to the Bill, and obtain orders.

13/10/65

Law Secy)

Secretary (P.W.D). M
(Sri Chandrasekharan) 13/10

The draft Bill referred to in para 48 49.
above may please be seen in pages 28 to 34 ante.

A draft Cabinet note in Appendix
the views of the LD and the Advocate
General has also been prepared and placed

Stitching space

Serial No.

further consideration by the Cabinet. Therefore I suggest that the amendment pertaining to water rate which is simple one and already approved by the Cabinet will be introduced in the Assembly. C.M. may kindly approve.

V. Pandit
14/10

C. M.-

55 Water rate can certainly be introduced even now during this session. The cabinet will consider the cabinet's decision in its next meeting on 20th and if a decision is taken the same can be introduced in the present session itself.

14/10/65

56. In pursuance of para 55 above a draft amendment bill alongwith a Statement of objects and reasons is placed at pages 47 and 48 of C/P which may please be seen by LD and further action taken to bring it before the current session as directed in para 55 above.

J.S. LD

15/10/65 DS(I)

711-A/Law/65

57) Ordered accordingly as per paras 54 & 55 above. Action has been taken before Law Secy. Please see above. Law Secy to see.

Note.—Contn. Sheet

Jag 16/10

16/10/65.

PWD

JS/15/10/65

File No. PWD 33 CBB 56 Bt of 195 .

Mysore Government Secretariat

Serial No.

59) For perusal of paras 54-57 of the case file. Action has been taken separately to introduce an amendment to Section 10 of the Betterment Levy and Water Rate Act (as per draft at pages 47 and 48). It is coming up before the Legislature in the current Session.

60) In respect of amendment to other sections so far as Betterment Levy is concerned, the draft Cabinet Note placed at pages 35 to 46 of the case file and also the draft amendment Bill at pages 28-32 of the case file may be perused and approved.

61) Chief Minister has kindly minuted in para 55 of the case note that the matter relating to Betterment Contribution has to be considered by the Cabinet in its next meeting on 20th and if a decision is taken, the draft amendment (vide page 28 to 32) can be introduced in the current session itself.

62) In view of the above, the draft Cabinet Note (vide pages 35 to 45) and the draft amendment Bill 28 to 32 may be perused and approved.

16/10/65

(M.Channappa)
Deputy Secretary to Govt.
P...L.(Irrigation)

OFFICE OF THE MINISTER FOR PUBLIC WORKS
No. 1979
16 OCT 1965
BANGALORE.

SECRETARY P.W.D. 63)
MINISTER, P.W.D. 17/10
CHIEF MINISTER. 64)

(VEERENDRA PATIL)
Minister for Public Works.

18/10/65

Secretary's action)
16/10/65

Chief Secretary 65) Please include in the meeting of 25/10
18/10

C. Govt

OFFICE OF THE CHIEF MINISTER
5402
18 OCT 1965
BANGALORE

WD 04700—GPB—PZS—8,00,000—1958

CB. 8684
18/10/65

Note Continuation Sheet

Subject.....

12

PWD File No. 33 LBW. 64

References and markings	Notes and Orders	Para Numbers

MYSORE GOVT. SECRETARIAT
C. 266/65
18 OCT 1965

66)

SECRET

Cabinet Case No. C. 266/65.....

Date 20-10-65.....

FOR CONSIDERATION AT
A MEETING OF THE CABINET

Cabinet Note circulated for information

Dy. Secy.
GAD.

Chief Minister,
All Ministers.

Initials

Balancing space

This subject was discussed inconclusively in the Cabinet today. Minister, PWD was requested to discuss this matter further with Secy, L&D & Secy, PWD. (67

20/10/65

Secy, PWD

A date convenient to (68
the Min. P.W. Dept may
please be indicated.

20/10

P.S. to Minister for P.W.

CHANDAPPA PATEL
Secy. P. W. & Elecy. Dept.

SECRETARY TO GOVERNMENT
No. PWS 6256
20 OCT 1965
PUBLIC WORKS DEPTT.

OFFICE OF THE MINISTER FOR PUBLIC WORKS
No. 2012
20 OCT 1965
BANGALORE.

28

Note Continuation Sheet

Subject Levy of Betterment Contribution

PWD 33/105/65

File No.

WD 016888—GPB—8,00,000—17-6 3

Reference and markings	Notes and Orders	Para Numbers

The Minister desires that the meeting be held in his chambers at 10.30 am on Monday 25.10.65

21.10.65

Secretary to Govt.

(Secy PW & E)

SECRETARY TO GOVERNMENT
No. WS 6256
Date 21 OCT 1965
PUBLIC WORKS & E...

V. V

Cle 21/10

DS(1)

Pll 21/10/65

I (interested) drafts. In approval.
21/10/65

Issue

Pll 21/10/65

Issued.
Dated 22/10/65 Cle

Meeting notices have been issued. This may now be marked to the PS to the Minister for PWD.
22/10/65

A meeting was held in the Chambers of the Minister, P.W.D. today, when the Secretary, P.W.D., the Joint Secretary, Law Department (Sri M.A.Srikrishna) were present. The Minister for Public Works at the outset informed that the procedure now suggested for Levy of

Reference and markings	Notes and Orders.	Para Numbers

Betterment Contribution is analogous to the procedure that existed prior to proposing ~~and~~ the amendment to the Act of 1957. Then the question of fixing of Betterment contribution based on the appreciated value of the land was tried for some time and ultimately it was decided in the Committee of Divisional Commissioners that it would not be possible to fix the quantum of appreciation and thereby the Betterment on that principle. Hence it was then suggested that a fixed rate of Betterment contribution may be levied based on the type of irrigation works etc. But now this fixed levy of betterment contribution is opined to be arbitrary and not in accordance with the constitutional principles, Hence cannot be adopted.

76) In view of the above the Minister for Public Works desired that the matter may be referred once again to the Committee of Divisional Commissioners ~~where~~ with a clear note indicating the decision ~~was~~ taken in that committee some time back, which led to the introduction of the amendment to the Betterment Levy and water Rate Act, 1957, and also the opinion of the Law Department as it stands in respect of the amended act and also in respect of the Writ Petitions that are now filed against the Levy of basic Betterment contribution and the Special Benefit contribution etc.

Nothing Above

30

Note Continuation Sheet

Subject ..... File No. .....

WD 014C59—GPB—8,00,000—17-3-65

Reference and markings	Notes and Orders	Para Numbers

77) ... Joint Secretary, Law Department, who was present explained that unless some principles regarding the levy of Betterment contribution are enunciated it would not be sustainable in law to levy a fixed contribution. Hence it would be desirable that the matter be examined once again in the Committee of Divisional Commissioners (who happen to put this into implementation) and suggest ways and means to over come the difficulty experienced in the past and also the legal difficulties enumerated in respect of levying of fixed sum as Betterment contribution.

78) A draft note on the above should be prepared and put up immediately.

25/10/65

(M. Channappa)
Deputy Secretary to Govt.
R...D. (Irrgn.)

The main file bearing no. WD 11 CBS 63 (79
relating to Levy of Betterment Contribution
has been sent to LD on 29.9.1965 -
as the same was required by them
urgently for reference. As this file is now
required for putting up a draft note -
as observed above, the Law Dept. may
kindly arrange to return the file immediately

25/10/65 — Pl. put up a do. (80
reminder to LD under the signature
of DS (I) — 25/10/65

Obtain in person or Judicial Cases
25/10

Stitching space

Note Continuation Sheet

Subject... Levy of Betterment Contribution

File No. PWD 33 LBW 64

14

Reference and markings	Notes and Orders	Para Numbers
	The connected file bearing No.PWD 11 LBW 63 which led to the introduction of the amendments to the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, is placed below for perusal and reference.	81
763 Z	Section 4 of the Principal Act reads as follows:	82
	"Amount of Betterment Contribution: Subject to such rules as may be prescribed, the Deputy Commissioner shall determine the contribution payable in respect of each of the lands mentioned in Section 3 after taking into consideration the increase in its capital value as estimated in the prescribed manner. PROVIDED that the contribution shall in no case exceed the estimated increase in the capital value of the land"	
Opp. Page 247	Necessary rules under the Act for levy and recovery of betterment contribution were also framed and issued. Betterment Levy Officers were also appointed for this purpose. The report received from the Betterment Levy Officers may be seen from 55 to 103 of CF. They had expressed that the basis of gross produce is un-workable and the results are also varying to a large	83

Strikking space

Reference and markings	Notes and Orders	Para Numbers

large extent and that this basis for levying betterment contribution has not been implemented elsewhere. They suggested that the basis of market value be adopted for the purposes of levy.

Hence, this question of finalising the amendments to the Betterment Levy Act and to the rules framed thereunder was also discussed in the meeting held on 4.2.63 in the Chambers of Secretary to Government, Finance Department, and the following members were present:- 84

(1) Divisional Commissioner of Bangalore.
(2) Divisional Commissioner of Mysore.
(3) Deputy Secretary to Govt. Law Department
(4) Deputy Secretary to Govt. Finance Dept.
(5) Deputy Secretary to Govt. P.W.D Irrigation.

The proceedings of the above meeting placed at page 107 CF may kindly be persued. After due examination, it was finally decided that the only method namely levying contribution on flat rate basis is simplest one which can be very easily implemented. The greatest advantage in this method is that it does not require elaborate organisation for its implementation." Accordingly an amendment to this effect was proposed to the Act rules and the same was finally placed before the Cabinet for approval. Please see 85

After having considered by the Scrutinising Committee.

Retaining space

Note Continuation Sheet

Subject.....

15

PND 33(85)56.

File No.....

Reference and markings	Notes and Orders	Para Number
P 1767 C-7-A	see the Cabinet Note - Flag P. A detailed note put up explaining the circumstances which led to the amendments to the Mysore Irrigation (Levy of Betterment Contribution and Water Rates~~xxxxxxxx~~) Act 1957, may be seen at flag H. It is narrated therein that due to certain practical difficulties encountered in the collection of betterment levy, it was felt expedient to amend the Sections of the Act. The main difficulty encountered in the ~~situation~~ finalisation of the quantum of betterment levy was ~~due to~~ the correct assessment in the un-earned increments in the land value consequent upon the construction, improvements, or restoration of any irrigation work. The amendments were duly approved by the Government and the same were published as Mysore Act No.8/64. Please see Flag Z. The amendments so issued to the principal Act are again subjected to challenge in the Court of Law. A good number of writ petitions have been filed before the High Court challenging the validity of the provisions of this Act in regard to Betterment Levy. Interim Stay Orders have also been issued from the High Court restraining Government from recovering betterment contribution under the provisions of the Act. It is now held that the ~~fixed~~ fixed contribution is not sustainable in law.	

Nothing space

Subject Levy of Betterment Contribution File No DP2 336 V 84

WD 014899—GPB—8,00,000—11-8-6[illegible]

Reference and markings	Notes and Orders	Para Numbers
	Now it is considered desirable to go again into the matter minutely and to devise ways and means to overcome the difficulty experienced in the past and also the legal difficulties that have come in the way of levying of fixed sum as betterment contribution.	86
Regarding Levy from D/S'd Land Owners 8/11 8/11	A note explaining the above facts is also putup which may be perused at pages 51-52 of C.F. 8/11	87
	For perusal of paras 75 to 78. 81 to 86 of CN A brief note explaining the Subject is placed at Pages 51-54 of CF which may be perused. As desired in para 77 the matter may have to be examined in the Committee of Divisional Commissioners and a decision arrived at. (Secy P.WD) 8/11/65	88
	We may send a copy of the draft amendment now proposed, Dass in	89

SECRETARY TO GOVERNMENT No. DP/S 6715 Date - 9 NOV 1965 PUBLIC WORKS & ELEC. DEPT.

Retaining space

16

Continuation Sheet

Subject.....

File No. PWD 33 CAS 65

References and markings	Notes and Orders	Para Numbers

Dw. Cons. & C Es (Pl) & Gr.
for their remarks which
should reach Govt
by the date 29.11.65
we may discuss
the subject in one
of the meetings of
the Dw. Cons. which
are held periodically,
or on the day on
which State Level
working Groups meet.

A

9/11/65

CHANDAPPA PATEL
Secy. P. W. & Elecy. Dept.

DS(T) Minister for Public Works

Sec'y P.W.D.

V. Patil
9/11

(90

(VEERENDRA PATIL),
Minister for Public Works.

The drafts may issue. (91
Thereafter the file may kindly
be submitted C.S.

DS(1)

11/11/65

Ch
10/11

Contd.

OFFICE OF THE MINISTER FOR PUBLIC WORKS
NO. 2185
9 NOV 1965
BANGALORE.

SECRETARY TO GOVERNMENT
No. 6715
Date 10 NOV 1965
PUBLIC WORKS & ELEC. DEPT.

36)

Note Continuation Sheet

Subject ... Levy of Betterment Contribution ... File No. Pwd 33 CR 85 Vol 4

WD a14839—GPB—8,00,000—17-6-8

References and markings	Notes and Orders	Para Numbers

pss ? C.Spl. ① ② submitted with a draft for approval. 11/11/65

92

Issue

93

a/a/65

Issued

Dated 12/11/65

Draft letter to the Secretary State working group to pursue for approval

94

12/11/65

17/11/65

Issue & put up

12/11/65

Issued

Dated 12.11.65

(95) For perusal of paras 89-91. The Divisional Commissioners and the Chief Engineer(G), Chief Engineer(I.P) have been addressed in Govt. letter dated 12.11.65 (vide page 67 of the file) enclosing a copy of the amendment and a note on the subject to intimate their remarks to Govt. by 25.11.65 positively.

96. The Secretary, State Level Working Group on Irrigation and Development has also been addressed in Govt. letter dated 12.11.65 (vide page 64 of the case file) enclosing a copy

Reference and markings	Notes and Orders.	Para Numbers

of the note and also the amendment for placing this subject in the Agenda of the ensuing State Working Group Meeting. The file may now be submitted for perusal of the Chief Secretary.

12/11/65

(M.Channappa)
Dy.Secretary to Govt.
P.W.D.(Irrign.)

SECRETARY, PW&E.
CHIEF SECRETARY.

It is suggested that (97
the subject be discussed
in a meeting of the Dir. Cons.
& C.E.S. (I.P.&C.) when
Dir. Cons. visit B'lore
in connection the the
State level working
group meeting. The note may be
elaborated a little further after receipt
of the file.

Ch
12/11/65

C.S.

CHANDAPPA PATEL
Secy. P.W. & Elecy. Dept.

Yes. the meeting (98
may be held at 4 p.m. on 26/11/65

16/11

Secy/PWD

K. BALACHANDRAN,
Chief Secretary to Government.

I will be on leave from (99

SECRETARY TO GOVERNMENT
No. 9667
Date 12 NOV 1965
PUBLIC WORKS & ELEC. DEPT.

Stitching space

CHIEF SECRETARY
No. 9447
15 NOV 1965
GOVERNMENT OF M...

SECRETARY TO GOVERNMENT
No.....
16 NOV 1965
PUBLIC WORKS & ELEC. DEPT.

38

Note Continuation Sheet

Subject ..... File No.....

WD 014393—GPB—8,00,000—17-(-65

References and markings	Notes and Orders	Para Numbers

[illegible] 25.11.65. If it is not inconvenient, the meeting may kindly be fixed on 25.11.65

CK
16/11/65

C.S.

Discussed with Dy. Com. & C.S. (100
who have been agreed to discuss the subject on 25.11.65 at 3.00 p.m.

& C.S Chambers

The file in regard to Malir Jetties may also be discussed informally so that they could be given effective & timely Telegram in case of necessity.

16/11

16/11/65

Information has been given to the Divisional Commissioners by Phonograms @ 6-P.M. A Letter may (101
be issued tomorrow positively

Stitching space

WD 014899—GPB—8,00,000—17-6-65

Reference and markings	Notes and Orders	Para Numbers

It was ~~brought~~ also brought to the notice of the Members by the ~~Advocate General and Law Department~~ Joint Secretary that it is not feasible to ~~entrust this collection~~ introduce this Correction at this stage when the publication of rules has already been made. The Divisional Commissioners may send their suggestions, objections to the authorities so as to enable ~~their~~ consideration of Their suggestions, objections, at the time of finalisation of the Water Rate Rules.

25/11/65

(M.Channappa)
Dy.Secretary to Govt.
P.W.D.(Irrgn.)

SECY.PW&E)
Chief Secretary

The said proceedings (107) are placed on the file at page 73/c.r. for perusal before action is taken on the directions issued therein.

Chandrappa
28/11.

C.S. - lm
29/11

(108)

Secy. PWD

K. BALACHANDRAN,
Chief Secretary to Government.

25/11/65

P.T.O.

SECRETARY TO GOVERNMENT
No. 6809
Date 26 NOV 1965
PUBLIC WORKS & ELEC. DEPT.

CHIEF SECRETARY
No. 9186
26 NOV 1965
GOVERNMENT OF MYSORE

SECRETARY TO GOVERNMENT
No. PWS 7039
Date 30 NOV 1965
PUBLIC WORKS & ELEC. DEPT.

Stitching space

41

Note Continuation Sheet

Subject Levy () Better mode Cooke Bolton

File No. PD 33 (Part) 64

Reference and markings	Notes and Orders.	Para Number
	Based on the decisions taken in the meeting held on 25.11.1965 in the Chambers of the Chief Secretary to Govt of Kerala (= Proceedings of the meeting placed at pages 73-75 of c.f.), the Cabinet note already prepared is accordingly modified and placed at page 76 of c.f. for perusal and approval.	109
	The draft amendment which is also enclosed to the Cabinet note is also slightly revised.	110.
	The Law Dept. may also see the modified draft amendment now proposed in view of the decision taken in the meeting held on 25.11.1965 before going to Cabinet section.	111
	27.11.65	

112) For perusal of paras 106-108 of the case note. The draft Cabinet Note already prepared is now modified suitably and placed at pages 76 of the case file which may be perused.

113) The draft amendment which is appended to the draft Cabinet Note at page 86 of the case file is also suitably modified. Law Department may kindly see paras 106-108 and also the

Stenciling Bureau

Reference and markings	Notes and Orders.	Para Numbers

of the Central Provinces Municipalities Act, 1922. The Supreme Court did not accept this contention. The following observation of the Supreme Court may be noticed:-

> "...the provision for an appeal before a Deputy Commissioner who is an authority who performs numerous functions under different laws, functions which are executive, as well as administrative and judicial cannot be regarded as on par with one which provides for an appeal before an Appellate Assistant Commissioner under the Income-tax Act, an authority whose duties are confined to matters arising under that Act. Further, the latter Act contains a safeguard in the shape of an appeal to the Income-Tax Appellate Tribunal which deals exclusively with matters arising under that Act and is an independent tribunal. In the circumstances it must be held that even in the class of cases to which the provisions of sections 83 and 85 of the Municipalities Act apply they cannot be said to provide a sufficiently effective remedy to an assessee to challenge the assessment made against him or to a person who is aggrieved by the action of the Committee levying or refusing to refund a tax."

The Law Department would therefore suggest that it is desirable to retain the provision as in the draft Bill without any change sofar as sub-sections (6) and (7) of new section 4 are concerned. 118)

As regards the suggestion made for amendment of clause (a) of sub-section (5) of new section 4, that the increase in the value of the land should be determined by the supply of water to the land due to the construction, 119)

Stitching space

Note Continuation Sheet

Subject ..... File No.....

WD 014899—GPB —8,00,000—5-12-64

References and markings	Notes and Orders.	Para Numbers

restoration, expansion or alteration of the irrigation work ~~xxxxx~~ instead of the completion of the construction, restoration, expansion or alteration of the work, the proposed change ~~this~~ may lead to difficulties in view of Explanation I to sub-section (1) of section 3 wherein it is declared, inter-alia, "a land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided such non-enjoyment is due solely to action or inaction on the part of that person or persons interested in such land." A benefit will be derived not when water is supplied but water is made available, ~~and it may be necessary to provide that when the liability will arise.~~ ~~The completion of the construction of an irrigation work will be when consequent upon that construction, the land gets the benefit.~~ As the expression 'irrigation work' includes canals, channels, etc., it may be possible to declare the date of completion of the work with reference to different lands ~~kinds among~~ different dates, the date of completion being the date on which water is made available to the lands from the irrigation work concerned. In this view, it may not be necessary to amend sub-section (5)(a) of section 4. A revised draft Bill has accordingly been prepared and is placed below.

Stitching space

Note Continuation Sheet

22

Subject Levy of Betterment Contribution. File No. PWD 33 LBW 64.

— Amendment of Act —

Reference and markings	Notes and Orders.	Para Numbers
2229/JSD 24/12/65	According to rules 48 and 49 of the Mysore Government Rules of Business, draft Bills have to be approved by the Scrutinising Committee before they are brought before the meeting of the Cabinet. The Public Works Department may be requested to take necessary action accordingly.	120)
3988/45 24/12/65		
LAW 832/CONFVII/65		
	Law Secy) 23/12/65 M. A. SRIKRISHNA, Draftsman & Ex-Officio Joint Secretary, Law Department	(122
	P.W.D by 24/12/65 T. SANJEEVALU, Law Dept.	
	27/12/65.	
	28/12/65	(123
	The remarks of the L.D. are in second para. As opinion by the L.D. this may be marked to that Dept. for placing the draft bill to be approved by the Cabinet before the Scrutinising Committee for their opinion.	(124
	29/12/65	
	30/12/65	125
	M. CHANNAPPA Dy. Secy. to Govt. P.W.D. (Irrgn.)	
	The approval of the Minister, P.W.D. for the tentative draft Bill may be obtained as required by rule 48 of the Mysore Govt Rules of Business and the file returned. A note sent for taking further action.	(126
	D-S.(Irrn.) M.M.L. M. L. RAMACHANDRA. Dy. Draftsman & Ex-Officio	p.t.o

Drawing space

MYSORE GOVT SECRETARIAT No. 2508 2 [illegible] P.W. RECEIPT & ISSUE Spl Jurgn

MYSORE GOVT SECRETARIAT No. 17 3 JAN 1966 P.W. DEPTT (REGISTRARY)

D-S(I) 925

MYSORE GOVT SECRETARIAT No. 25 -5 JAN 1966 Spl Jurgn ISSUE SECTION

Note Continuation Sheet

Subject ..... Levy of Betterment Contribution - Amendment Act.

PWD 336 BRS 64
File No.....

WD 014399—GPB—8,00,000—5-12-64

Reference and markings	Notes and Orders.	Para Numbers

Please see the remarks of the L.D. at pages 116 to 120 and at para 126 ante. (127)

They have suggested that it is necessary to amend Sections [illegible] of the Act. In the reasons stated in the preceding paragraph. A Revised draft Bill as scrutinised by the Law Dept. is placed at page 89 (1095) c.f.

This may be submitted to the Revision (128) Powers for his approval to the Legislative draft Bill as required by Rule 48 of the Mysore Govt Rules of Business

54/55

Sec 16.1.66 (129)

SECRETARY TO GOVERNMENT No..... Date 31 JAN 1966 PUBLIC WORKS & ELEC. DEPT.

Spl Secy

(130) 22/1/66

M. CHANNAPPA
Dy. Secy. to Govt. P.W.D. (Irrgn.)

Secy P.W.D
Min P.W.D

DS (1) (131)

(132) 31/1

(VEERENDRA PATIL) Secy. P.W.D.

TO GOVERNMENT No. 279 PUBLIC WORKS & ELEC. DEPT. 174 BANGALORE

Secy PW 4E

2.2.66 (133)

Contd

Stitching space

Note Continuation Sheet

23

Subject: Levy of Betterment Contribution — Amendment to the Act — LAW 9 LGN 66

File No: (MD 33 CSW 64)

References and markings	Notes and Orders	Para Numbers

As observed by the Law Department at para 126 ante, the approval of the Minister for P.W. & Power has been obtained to the draft Bill as required by Rule 48 of the Mysore Govt. Rules of Business. This may now be retured to L.D. for necessary action and for placing the Bill before the Legislature in the current session itself. (134

MYSORE GOVT SECRETARIAT
1 FEB 1966
LAW DEPT REGISTRARS

1/2/66
L.D.)

1/2/66
M. CHANNAPPA,
By. Secy. to Govt. P.W.D. (Irrgn.)

May be placed before the Scrutinising Committee. (135

US.D

Secy
Scrutinising Committee)

mas
1/2/66.

M (illegible)
Copies of
Bills made
as per slip

2/2/66

Six (illegible) Bill

Pl. type the Copies of the Bill

MAM
2/2

Seven Copies of the Bill are placed in the file

MAM
(USD)

For obtaining orders of Hon'ble CM re. date and time at which a meeting of the Scrutinising Committee may be convened (136

Secy
7/2/66

P. S. to Hon'ble C.M.)

K. N. GUNDAPPA,
Asst. Draftsman & Ex-Officio
Under Secy., Law Department.

OFFICE OF THE CHIEF MINISTER
No. 568
8 FEB 1966
BANGALORE.

Meeting may be held on 21/2/66 at 11-00. am. (137

9/2

OA

9/2

Ee/Secy (Law)

D. Devaraj 9.2
Private Secretary
to the Chief Minister.

Note/Continuation Sheet

Subject Levy Betterment Contributions Draft Bill 1966

File No. QLG/166

WD 016833—GPB—8,50,000—17-5-

References and markings	Notes and Orders	Para Number
	Draft and print 2 Letter to members is placed as put Issue Sd/- 11/2	138
	Issued and put up.	139
	Discussed. Approved. Bill may be submitted to Cabinet. Sd/- 21/2/66	140.
"B"	Draft Bill as approved is placed as put. In the Bill as provided for taking action as ~~necessary~~ ~~action~~ as ordered at para 140. Sd/- 21/2/66	141
	Secy to Govt P.W.D. & Secy. Sd/- K. N. GUNDAPPA, Asst. Draftsman & P.O. Under Secy., Law Department & Secy, Sanitation Committee	
	pl put up a draft Cabinet note immediately Sd/- 21/2	142

Rubber stamp: P.W.D. 1972 ... 1966 WORKS & E...

Rubber stamp: Initialling space

Note/Continuation Sheet — The Mysore Prohibition (Levy of Betterment Contribution and Imposition of Betterment Fee) Bill 1966

Subject ..... File No LAW/Law/66

WD 014899—GPB—8,00,000—11-8-65

Reference and markings	Notes and Orders	Para Numbers

153

Law Dept

Copies of the Bill have been sent to Secy LD for scrutiny. The Hon'ble CM directed yesterday that the Bill may be sent to Secy Legislature and the file may be put up to Cabinet for appl of action taken at Monday's meeting of the Cabinet the file was accordingly put up for Secy before to CS.

Mas 24/2/66

335/55D

Copy of the Principal Act also placed in the file MAS

K. N. GUNDAPPA,
Asst. Draftsman & Ex-Officio Under Secy., Law Department.
Mas 24/2/66

154

L.S.

C/S. MS 24/2

Bralakrishnaiah 24/2

155

CM Discussed in Cabinet. The Bill may be introduced

156

24/2/66

K. BALACHANDRAN,
Chief Secretary to Government.

Secy. L.D

CRITT SECRETARY No 1139 24 FEB 1966 GOVERNMENT OF MYSORE

CO.T. SECRETARIAT No C.50/66 C.A.D. (COUNCIL SECTION)

548/LS
25.2.66

D.L.S. (Bhatia) KH MS 25/2/66 22.2.66

Stitching space

Note Continuation Sheet

Subject The Mysore Irrigation Cess (Amendment) Bill 1966

File No. 9 LG 1966

Reference and markings	Notes and Orders	Para Numbers
1009	The bill is included in the business of the Assembly for Monday the 28th Feby 1966. Motion for consideration and passing the bill is put up for Rajakaryadarshi to LCA.	157.
	M.A. SRIKRISHNA Draftsman - Ex-Officio Joint Secretary, Law Department.	
	It will come up on 3rd inst.	158
	Bill was passed	159
	Law Secy	

Stitching space

THE MYSORE IRRIGATION (LEVY OF BETTEMENT CONTRIBUTION AND WATER RATE)(AMENDMENT) BILL, 1966.

Note Continuation Sheet 26

Subject..... File No. LAW 9 LGN 66.

Reference and markings	Notes and Orders	Para Numbers
	The above Bill will be laid by the Chief Minister before the Legislative Council as per its business for Monday the 7th March, 1966.	160
	A form of notice is placed in the file for submission to the Chief Minister.	161
	As ascertained from P/A the papers were placed on the Table by the Secy, Legislature in the council. This may be returned to Law Dept	162
	These papers are put up for Submission to the Hon'ble the C.M.	163

MAN 5/3/66.

P.S. to C.M.

5/3/66

M. A. SRIKRISHNA,
Draftsman & Ex-Officio
Joint Secretary, Law Department.

7/3

Law Dept

MML 9/3

9/3

MML 10/3

D.S. (D)

17/3/1966

D.S. Drafting

D.S. to C.M.

MML 17/3

Stitching space

Note Continuation Sheet

LAW 9 LGN 66 27

Subject The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966. File No.....

Reference and markings	Notes and Orders	Para Numbers

The form of motion for consideration and passing of the above Bill to be moved by the Chief Minister is placed herewith for submission to the Chief Minister. The Bill is included in the Legislative Business of the Legislative Council for today. 164

LAW 83/Ed/VIII/66

1277

17/3/66.

17/3/66

K. N. GUNDAPPA,
Asst. Draftsman & Ex-Officio
Under Secy., Law Department.

LAW DEPT (REGISTRARY) 15 19 MAR 1966 7

DS(D)

22/3

Stitching space

17/3

165

CM) The Bill is considered & passed. 19/3/66

LAW DRAFTSMAN 231/DSD 22-3-1966 LAW DEPARTMENT

The main file may be sent below E/A

21/3/66.

Sd/- Law Dept

19/3

Letter No.19576/L.A. dated 25-3-1966 from the Secretary, Mysore Legislature, Bangalore,

---

166

The Secretary, Legislature, has forwarded two copies of the Bill as passed by the Houses of Legislature. Two parchment copies received with the P.U.D. are for perusal.

Note Continuation Sheet

Subject... The Mys Irrigation (Cess of B.C. & W.R.) Bill 1966 ... File No... 9 L 3 11.66

WD 014899—GPB—8,00,000—11-8-65

Reference and markings	Notes and Orders	Para Numbers

PWD 33 LBW 66

2/DSO

The subject matter of the Bill falls under entry 17 of List II (State List) of the Seventh Schedule to the Constitution of India, as such, the Governor can assent to the Bill under Art. 200 of the Constitution.

165

235
25.3.1966

Before the file is submitted to the Governor for assent, the papers may be sent to the P.W.D. for remarks under rule 56 of the Rules of Business.

MAL 25/3/66 D.S.(D)

MAL 25/3/66

Secy (PWA) D... Dy. Secy. (Law Dept.)

SECRETARY TO GOVERNMENT No. PWS 72/4 Date 25 MAR 1966 PUBLIC WORKS & ELEC. DEPT.

169

CA 26/3

(MAL 28/3/66 M. Channappa Addl)

D.S.(D)

L.D.

170

Is there any authority to support the view expressed in para 167?

CA 1 1966

Mas 30/3/66 M. A. SHANKARISHNA. Draftsman ... Joint Secretary, Law ...

171

The subject matter of the Bill falls under entry 49 of List II and it is incorrectly put down as entry 17 in para 167. The mistake is regretted.

602/DSO 4.4.66

JT Secy MAL 4/4

Stitching space

Note/Continuation Sheet No.

Subject: The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Bill, 1966

File No: LAW 9 LGN 66 — 28

WD 014899—GPB—8,00,000—11-8-65

Reference and markings	Notes and Orders	Para Numbers

602/1959

1059/1959 5/4/66

The mistake could have been avoided if section 3 of the principal Act and the previous notes (vide ~~para~~ 3) had been seen by the Deputy Draftsman or if had been consulted. 172

The file may be submitted to the Chief Minister for approval before submitting the Bill to the Governor for declaration of his assent. 173

Law Secy
Mas 4/4/66
D. D. SRIKRISHNA
Draftsman & Ex-Officio Joint Secretary, Law Department 174

C.M.
S
R. SANJEEVALU,
Secy., Law Dept.
S. NIJALINGAPPA
Chief Minister
5-4-66

Secy (Law)
Mas 7/4/66.

OFFICE OF THE CHIEF MINISTER No. 1657 5 APR 1966 BANGALORE

MYSORE GOVT SECRETARIAT No. 1858 6 APR 1966 LAW DEPT (REGISTRAR) 175

LAW DEPARTMENT

176) Two authentic copies of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Bill, 1966, as passed by both the Houses of Legislature are placed in the file. The Governor may be pleased to declare his assent to the Bill under Article 200 of the Constitution of India by affixing his signature with the date in the appropriate place on both the copies of the Bill.

D.S.(L) 8/4/66

11/4

GOVERNOR'S SECRETARIAT No. 7 12 APR 1966 BANGALORE

D and E

(R. SANJEEVALU)
Secretary to Government,
Law Department,
11-4-1966.

Secy. to Governor.

RTC

Note Continuation Sheet

Subject... The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966. LAW 9 LGH 66 File

Reference and markings	Notes and Orders	Para Numbers

The Mysore Irrigation(Levy of Betterment Contribution and Water Rate)(Amendment) Bill, 1966, has been assented by the Governor. 177

(D.S. Raghavendrachar)
Secretary to Governor.
12-4-66.

No 7 12/4

The Secretary to Govt.
Law Dept.

(draft) 12/4

The Act will now be published as Mysore Act no 13 of 66 in the Mysore Gazette dated 21st April 1966, if approved. 178

1138/65

Three drafts and date of notifications, Memorandum and letter are put up for approval and Signature. 179

may be approved 180

12/4/66 (Law dept) 12/4

181) 13/4

182) Issue 13/4

Issued vide O.Lgh 5 dated 13/4/66.

13/4/66

The Mysore Irrigation (Levy of B.C. Tax) Bill 1966

Mysore Government Secretariat | File No. QLQN of 1966 6 | [App. F. III 2 29

Serial No.

letter No 3TI/LA dated 15/4/66 from the Secretary, Mysore Legislature.

(183) The acknowledgement for the receipt of this opinion letter dated 13/4/1966 is for perusal.

MAD 21/4/66 (184) Dy 21/4/66 4/S Drafts

(185) A Copy of the Act Since published in the Mysore Gazette dated 21.4.66 is placed with these papers The file will be 'B' recorded.

MAD 28/6/66

Dy 29/6/66

K. N. GUNDAPPA,
Asst. Draftsman & Ex-Officio Under Secy., Law Department.

B 29/6/66

Note.—Contn. Sheet

M. G. S.	Subject:	File No.

WD 01050—GPB—8,00,000 13-12-65

LAW 244/Int/VIII/66

Subject: Issue of Corrigenda in respect of notifications published in the Mysore Gazette.

....

In the two Notifications No. LAW 9 LGN 66, dated 12th April 1966 and LAW 61 LGN 65, dated 18th May 1966, notifying the publication of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1966 and the Mysore Stamp (Amendment) Act, 1966 in Mysore Gazette dated 21st April 1966 and 26th May 1966 respectively, it has been notified as 'Bill' in ~~respect~~ Final of 'Act'. The mistake is regretted. Two draft and fair Corrigenda are put up for approval and signature.

286/D80
23-8-1966

23/8/66 D.S(D)

Issue
MML
24/8

Issued on 24/8/66

Recd B
24/8/71

Law Dept.:-

50/Cont VI
270/Cont VII

The Advocate-General was consulted on the matter. An extract of Opinion of the Advocate-General is given below. The Govt. Dept is requested to modify the rules accordingly

171)

"The draft rules are made under Sec.11 of the Act. Sec.11 authorises the Govt. to make rules to carry out the purposes of the Act. The rules primarily provide for the levy of water rate and the manner of recovering the same. Charging Section is Sec.10 of the Act as amended by Act VIII of 1964. The amended Sec.10 provides for the levy of water-

rate under four clauses (a) (b) (c) and (d)/.

~~the manner of recovering the same. Charging Section is Sec. 10 of the Act as amended by Act VIII of 1964. The amended Sec.10 provides for the levy of water rate under four clauses (a) (b) (c) and (d).~~

Under Clause (b) which is very relevant for the present discussion, provides for cases whenever water is supplied, made available or used for purpose of irrigation or any other purpose from any work belonging to or constructed by or on behalf of Govt. (Clause (c) also provides for cases of taking out water by percolation or otherwise from such work as mentioned in clause (b). When water is so taken or used. the section provides that the Govt. shall be entitled to levy a separate charge or separate levy for such water Thereinafter referred to as water rate and it is further provided that the Govt. may prescribe the rate in which such water rate is levied. In so levying different rates are allowed to be prescribed such as when water is supplied or used for different purposes or when water is supplied or used with referenc to different crops. The section further provides that the Govt. may prescribe by rules the manner in which and the authority by which the amount of water rate shall be determined.

The rule making power of the Government is confined to carry out the purposes of the Act. Under the guise o the rule making power the Govt. cannot enlarge the scope of the charging Section. While the charging section authorises the Govt. to prescribe different rates

when water is used for different crops grown the charging section does not authorise the Govt. to prescribe different rates, when the water is supplied from major irrigation work or medium irrigation work or a minor irrigation work. Water rates shall be charged or levied for water used from a work belonging to Govt. or constructed by Govt. whether such work is classified as major, medium or minor.

I should therefore think that the different classification for levying the water rate under clauses (a) & (b) of Rule 3 cannot be justified. I also agree with the note in the file that the explanation (A) to Rule 3 cannot stand. Under rule making power you cannot modify the provisions of Land Revenue Code.

The other rules merely provide for the method of levying or collecting the water rate. The manner of determination under rule 8 may require some modification as suggested as some determination is necessary before demand is made. Before demand is made and for a determination to be made some inquiry and some opportunity to make representation should be provided. The suggestion made in Note (A) may be adopted.

Sd.
Advocate General.

SECRET 1965 PWD 33 LBW 63

CABINET NOTE

Subject: C.195/65
Levy of Water Rates and Betterment Contribution.

The question of levy of Water Rates was considered in the Cabinet Meeting held on 17th November 1963 and it was decided to fix the Water Rates as follows:-

(a) In respect of water supplied, made available or used from any major irrigation work or medium irrigation work:-

i) for not less than eight months in a year:

(a) for growing sugarcane ... Rs. 70 per acre
(b) for growing other crops .. Rs. 50 per acre

ii) for not less than two months but less than eight months in a year.

(a) for growing wet crops ... Rs. 20/- per acre
(b) for growing dry-cum-wet crops ... Rs. 10/- per acre

iii) for less than two months in a year Rs. 5/- per acre

(b) in respect of water supplied, made available or used from any Minor Irrigation Works:

(i) for not less than eight months in a year

(a) for growing sugarcane Rs. 30/- per acre
(b) for growing other crops Rs. 21/- per acre

(ii) for not less than two months but for less than eight months in a year:

(a) for growing wet crops Rs. 12.50 per acre
(b) for growing dry-cum-wet crops. Rs. 6.00 per acre

iii) for less than two months in a year. Rs. 4.00 per acre

2. The rates of wet assessment as in force present are shown in the Statement at Annexure I.

3. The draft Rules to implement the decision of the Cabinet in accordance with the provisions of the Mysore Irrigation (Levy of Betterment Contribution and water Rate) Act, 1957 as amended by the Mysore Act No. 8 of 1964 were prepared in consultation with the Law Department, and were published, inviting for objections. The objections received were considered in consultation with the Revenue Department and a few modifications were made without affecting the main contents of the Rules. The draft Rules were then referred to the Law Department for their remarks before finally publishing them in the Gazette. At that stage, the Law Department opined that 'charging section' of the Irrigation Act viz., Section 10 did not authorise the Government to levy different rates for supply of water from different sources i.e. from major

... 2

and medium irrigation projects and minor irrigation projects. This opinion was based upon the views expressed by the Advocate-General which reads as follows:

"The draft rules are made under Section 11 of the Act. Section 11 authorises the Government to make rules to carry out the purposes of the Act. The rules primarily provide for the levy of water rate and the manner of recovering the same. Charging section is section 10 of the Act as amended by Act VIII of 1964. The amended Section 10 provides for the levy of water-rate under four clauses (a) (b) (c) and (d). Under Clause (b) which is very relevant for the present discussion, provides for cases whenever water is supplied, made available or used for purpose of irrigation or any other purpose from any work belonging to or constructed by or on behalf of Government. Clause (c) also provides for cases of taking water by percolation or otherwise from such work as mentioned in clause (b). When water is so taken or used, the section provides that the Government shall be entitled to levy a separate charge or separate levy for such water thereinafter referred to as water rate and it is further provided that the Government may prescribe the rate in which such water rate is levied. In so levying different rates are allowed to be prescribed such as when water is supplied or used for different purposes or when water is supplied or used with reference to different crops. The section further provides that the Government may prescribe by rules the manner in which and the authority by which the amount of water rate shall be determined.

The rule making power of the Government is confined to carry out the purpose of the Act. Under the guise of the rule making power the Government cannot enlarge the scope of the charging section. While the charging section authorises the Government to prescribe different rates when water is used for different purposes of when used for different crops grown, the charging section does not authorise the Government to prescribe different rates, when the water is supplied from major irrigation work or medium irrigation work or a minor irrigation work. Water rates shall be charged or levied for water used from a work belonging to Government or constructed by Government, whether such work is classified as major, medium or minor.

I should therefore think that the different classification for levying the water rate under clauses (a) and (b) of rule 3 cannot be justified. I also agree with the note in the file that the explanation (1) to rule 3 cannot stand. Under rule making power you cannot modify the provisions of Land Revenue Code.

The other rules merely provide for the method of levying or collecting the water rate. The manner of determination under rule 8 may require some modification as suggested as some determination is necessary before demand is made. Before

demand is made and for a determination to be made some inquiry and some opportunity to make representation should be provided".

Apparently, the law has to be amended if the water rates have to be levied according to the source of supply, which is the essence of the Cabinet decision. I have consulted the Joint Secretary, Law Department. The following amendment, which has the approval of the Law Department, is suggested for consideration of the Cabinet.

For item (ii) of sub-section (1) of section 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, the following item shall be substituted, namely:-

"(ii) different in respect of water supplied made available or used from different irrigation works, and when the water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown or which may be grown on such land;"

4. While replying, on the floor of the Assembly, to the discussion on the Revenue Survey and Settlement Bill, on 22nd April 1965, the Chief Minister has kindly observed that while taking a final decision the rates prevailing in the States of Madras, Andhra Pradesh and other neighbouring States would be taken into consideration. When the papers were submitted to the Chief Minister, he has been pleased to minute as under:

"Yes, an assurance has been given by me on the floor of the Assembly..... It was as a result of an informal understanding in the Cabinet Meeting which was discussing the Land Revenue problem when Survey and Settlement Resolution was being discussed in the House. We have to give this informal understanding a shape. Please bring this up again before Cabinet for informal discussion for the purpose of setting up the machinery to work-out the details in furtherance of that understanding and later on to take a formal decision."

When the subject was discussed informally in the Cabinet Meeting held on 16th June 1965 the following decision was taken:

"Let P.W.D. Minister put up a considered note for consideration of the Cabinet."

5. In regard to the Betterment Levy, there have been representations about their being on the very high side. The Chief Minister had kindly observed that we may go slow in the matter of collection of Betterment Levy as the entire question requires to be reconsidered.

6. The information in regard to the system of levy of water rates in Andhra Pradesh State including the former Telangana area of the old Hyderabad State has been collected and an informal discussion was also held by me at Hyderabad on 29th July 1965 with the

Secretary to the Government of Andhra Pradesh, Revenue Department and other concerned officers. The position -is as under:

In Andhra Pradesh, generally, there is no separate Water Rate as such, leviable on the lands irrigated by Government sources. An assessment known as 'wet assessment' is levied upon the lands which are supplied with water for irrigation from Government sources. The wet assessment obtaining during the year 1960-61 in various districts of Andhra Pradesh including Telangana area are indicated in the Annexure II. During the year 1957 the land revenue standardisation of assessment came into force. This measure sought to minimise the inequitous assessment in different tracts due to different agricultural prices etc. at different times at which the settlements were made. During the year 1962 another measure known as 'Andhra Pradesh Land Revenue (Additional Assessment) and Cess Revision Act, 1962' was enacted which came into force with effect from 1st July 1962. The Act of 1962 is now in force, which provides for additional assessment on the dry lands as well as the lands irrigated by Government sources. Section 4 of the said Act read as follows:-

"4. For section 4 of the principal Act, the following section shall be substituted, namely:-

"Levy and collection of additional assessment on wet land served by Government source of irrigation.

4. In the case of wet land in the State which is served by a government source of irrigation specified in classes I, II and III of the Table below, an additional assessment at the rate of one hundred per cent, and in the case of wet land in the State which is served by a government source of irrigation specified in class IV thereof, an additional assessment at the rate of fifty per cent, of the assessment payable for a fasli year for that land shall be levied and collected by the Government from the person liable to pay the assessment for each fasli year in respect of that land:

Provided that the additional assessment together with the assessment payable per acre per fasli year for any wet land specified in column (1) of the Table below shall, in no case, be less than the minimum, or exceed the maximum, specified in the corresponding entry against that land -- (vide enclosed)

(a) in column (2) of the Table in the case of single-crop wet land, and
(b) in column (3) of the Table in the case of a double-crop wet land.

7. In the case of new projects whether big or small, major or minor, the Andhra Pradesh Government have decided to levy a uniform Water Rate as noted below:

I. For the first or single wet crop on dry land. Rs. 15 per acre.

II. For irrigated dry crops on dry land — Rs. 10 per acre.

III. For dufasal crop or for two wet crops — Rs. 22.50 per acre.

A notification under Section 1 of the Andhra Pradesh Irrigation Cess Act, 1865 (perhaps this a copy of the Madras Irrigation Cess Act) has been issued by them to implement the above decision.

8. Another measure, it appears, is being introduced during the current Session of the Andhra Pradesh Legislative Assembly, which enables the State Government to levy an assessment at the rate of 2½ times of the wet assessment for sugarcane crops of 11 months' duration and 3½ times of the wet assessment for sugarcane crop which matures in 16 to 18 months. It appears that the rate would generally work out to Rs. 60 per acre in the first case and Rs. 84 per acre in the second case. If sugarcane is grown on dry land with the help of the water supplied from the Government source the rate would be 2½ time or 3½ times of the water rate and dry assessment together for the crops which mature during 11 months or 16 to 18 months, as the case may be.

9. In the State of Madras also, generally, wet assessment only is levied upon the land irrigated by Government source. However, if water is made available to dry land the water cess calculated by deducting dry rate from the wet assessment is levied. The wet assessment obtaining in some of the districts of Madras State is given in Statement/Annexure III.

10. As in the Andhra Pradesh State, an Act known as Additional Assessment and Additional Water Cess Act, 1963 has been passed which has come into force from the year 1962. According to this Act, an additional assessment at the rate of 45 per cent of the Land Revenue (Wet Assessment) payable for a particular year for the land, is levied upon the lands irrigated by first or second class of irrigation and 30 per cent on the lands irrigated by III, IV and V class source of irrigation.

11. It will be seen from the facts mentioned in the foregoing paragraphs that the water-Rate for paddy has been fixed at Rs. 15 per acre in Andhra Pradesh and the Madras State as well. The wet assessment fixed for the lands irrigated by projects constructed earlier have generally been raised so as to bring them on par (Water Rate Component) to the Water Rates fixed in respect of the new irrigation projects constructed in the recent past. In the State of Madras, however, separate rates have also been fixed for plantation, coconut, chillies, tobacco, gingilly, ranging from Rs. 10 to Rs. 15 per acre, and for millets a rate of Rs. 7.50 per acre has been fixed for the lands under almost all the new projects. In Andhra Pradesh, the rate for irrigated dry crops on dry lands, has been fixed at Rs. 10 per acre, the dry irrigation being anything other than wet cultivation. Of course, for sugarcane there is a separate rate as mentioned earliar.

12. A Water Rate of Rs. 15 per acre for wet (paddy) cultivation has, it is evident, been accepted throughout

the State of Andhra Pradesh and Madras. It is also seen that the Water Rate for Wet (Paddy) cultivation has been taken as the base for fixing the water rates for other types of irrigation. This procedure is prominently apparent in Andhra Pradesh. The States of Andhra Pradesh and Madras are our neighbourers and our problems are, in a large measure, common with them. It may, therefore, be practicable to fix the Water Rate for Wet (paddy)Cultivation at Rs. 15 per acre and consider it as a base for fixing the water rates for growing various other types of crops. For Sugarcane, the Andhra Pradesh Government is levying an assessment at 2½ times of wet assessment which would includes land revenue also. (Here the Wet assessment means the assessment for paddy cultivation). Where water rate is levied, the Andhra Pradesh Government is levying 2½ times of the total of Water Rate plus the dry rate. These rates are applicable in the case of Sugarcane crops of 11 months' duration. For longer duration crops the ratio will be 1:3½ instead of 2½ times. We may therefore fix the Water Rate for sugarcane at 2½ times the Water Rate for Wet (Paddy) cultivation which will work out to (2½ x 15) times = Rs. 37.50. This rate may be applicable to the sugarcane crops of 11 months duration which may be raised to 3½ times i.e. Rs. 52.50 in the case of sugarcane crops of longer duration i.e. 16 to 18 months.

13. The dry crops are of various kinds. Some may yield better returns than others. The crops like groundnut and cotton would bring greater income to the cultivator than millets and pulses. We may, therefore, levy a rate of Rs. 7.50 per acre for growing millets -- a rate prevailing in Madras State and Rs. 10 per acre for other irrigated dry crops other than the millets and pulses. The Garden crops may be charged at Rs. 15 per acre.

14. The above discussion regarding the rates are given in the tabulated form as follows:-

I.	For single Wet (Paddy) crop	Rs. 15 per acre
II.	For sugarcane crop	
	(a) of 11 months duration	Rs. 37.50 per acre
	(b) of 16 to 18 months duration	Rs. 52.50 "
III.	For growing cotton and groundnuts and other cash crops.	Rs. 10.00 per acre
IV.	For millets and pulses	Rs. 7.50 per acre
V.	For all Garden crops	Rs. 15.00 per acre
VI.	For manurial crops	Rs. 4.00 per acre

15. In Andhra Pradesh a distinction has been made between the lands irrigated by source having less than 50 acres achkat and the lands irrigated by sources having an achkat of 50 acres and above. As mentioned in paragraph 6 above, the wet assessment of the lands of the former category has been raised by 50% whereas that of the latter category by cent per cent. However, there will be a uniform rate leviable upon the lands irrigated by all new projects, big or small, major or minor. It is felt that in our State also there should be some distinction between the source having an achkat of about 100 acres /as the former category of source will have to depend entirely upon the local rains. It is

/and the sources having an atchkat largen than 100 acres

therefore, equitable that a slightly lower rates for lands irrigated by such source should be prescribed. The following rates are for consideration:

I.	Wet (Paddy) Cultivation	Rs. 12½ per acre.
II.	Sugarcane	Rs. 30 per acre.
III.	Cotton, Groundnuts and other cash crops.	Rs. 7.50 per acre
IV.	Millets and Pulses	Rs. 5.00 per acre
V.	Garden crops	Rs. 12½ per acre
VI.	Manurial crops.	Rs. 3 per acre.

BETTERMENT CONTRIBUTION

16. In both the States of Madras and Andhra Pradesh an enactment has been made to levy Betterment Contribution on lands coming under various projects constructed from the year 1947, (from 1st January 1947 in Madras and from 15th August 1947 in Andhra Pradesh). The lands under the irrigation works costing Rs. 1.5 lakhs and less have been exempted from the purview of this Act but rest of the projects whose cost is more than Rs. 1.5 lakhs whether they are major, medium or minor irrigation works, are subjected to the levy of Betterment Contribution under this Act. According to the Madras Irrigation (Levy of Betterment Contribution) Act of 1955 as amended by Madras Act of 1963, uniform rates of betterment contribution ranging from Rs. 80 per acre to Rs. 200/- per acre are levied upon the lands benefitted by the irrigation works costing more than Rs. 1.5 lakhs. The differenciation in rates of Betterment Contribution is based upon the classification of the lands. A copy of the relevant Section of the said Act is given in Annexure V.

17. In Andhra Pradesh, no fixed rate of Betterment Contribution has been fixed under Andhra Pradesh (Levy of Betterment Contribution and Advance Betterment Contribution) Act, 1955 as amended by Act of 1964. But the amount of contribution or the advance contributions payable by any owner in respect of lands benefitted or to be benefitted by the projects, will be so fixed as not to exceed one half of the increase or estimated increase in the value of the land on account of the completion of the construction, expansion or alteration of the work. The extract of the relevant section of the Andhra Pradesh Act is given in Annexure VI. The prescribed officers determine this amount of contribution by taking into account the cost of the land on the date of commencement of the work and the cost of the land on the date of completion of the work. According to the information furnished by the Board of Revenue, Andhra Pradesh, Hyderabad, it is found that the Andhra Pradesh Government have already collected a sum of Rs. 10,80,000 upto this year. During the discussion with the Revenue Secretary and other concerned officers, I was given to understand that on an average, the rate works out to Rs. 200 to Rs. 300 per acre.

18. Taking all the above factors into consideration and the representations made against the rates fixed earliar by us, as very high, the following suggestions are made:-

i) As against the present provision of exemption of irrigation works costing Rs. 1 lakh from the purview

of the Betterment Levy Act, the irrigation works costing Rs. 1.5 lakhs and less may be exempted from the levy of Betterment Contribution.

ii) Uniform rates should be made applicable in regard to the levy of Betterment Contribution upon the lands benefitted by the irrigation works, the cost of which exceeds Rs. 1.5 lakhs irrespective of whether they are major, medium or minor irrigation works.

iii) The basic contribution may be fixed at Rs. 200 per acre.

iv) The rate of Special Benefit Contribution may be fixed as follows:-

a) Rs. 100 for wet (Paddy) cultivation.
b) Rs. 200 for sugarcane cultivation.

19. The Betterment contribution may be collected by instalments over a period of twenty years. The collections should start after three years from the date of completion of the project as in practice in -Andhra Pradesh. Section 4(2)(a) of the Mysore Irrigation (Levy of Betterment Contribution & Water Rate) Act, 1957 as amended by Act of 1964 will have to be amended suitably.

20. The decision of the Cabinet is required on the following:

(1) The water rates for the lands irrigated by the irrigation works, the cost of which exceeds Rs.1.5 lakhs may be as under:

I	(a) For single wet (paddy) Crop	Rs. 15 per acre
	(b) For Double wet (Paddy) Crops	Rs.22.50 per acre
II	for Sugarcane Crops:	
	(a) of 11 months duration	Rs.37.50 "
	(b) of 16 to 18 months duration	Rs.52.50 "
III	For cotton and Groundnuts and other cash crops	Rs. 10 per acre
IV.	For millets and pulses	Rs. 7.50 "
V.	For all Garden Crops	Rs. 15 per acre
VI.	For manurial crops	Rs. 4 per acre.

(2) The Water Rates for the lands irrigated by the irrigation works, the cost of which is not more than 1.5 lakhs, may be as under:

I	(a) per single Wet (Paddy) Crop	Rs. 12.50 per acre
	(b) for Double Wet (Paddy) Crops	Rs. 18.75 "
II.	For Sugarcane crop.	Rs. 30/- "
III.	For Cotton, Groundnuts and other cash crops.	Rs. 7.50 per acre
IV.	For Millets and pulses	Rs. 5 per acre
V.	For Garden Crops.	Rs. 12.50 per acre
VI.	For Manurial Crops.	Rs. 3 per acre

(3) (i) The irrigation works, the cost of which does not exceed Rs. 1.5 lakhs, may be kept beyond the

purview of the Mysore Irrigation (Levy of Betterment Contribution & Water Rate) Act, 1957 as amended by Act of 1964.

(ii) The basic Betterment Contribution leviable upon the lands irrigated by irrigation works, the cost of which exceeds Rs. 1.5 lakhs, may be fixed at Rs. 200 per acre.

(4) The Special Benefit Betterment Contribution leviable upon the lands prescribed above may be fixed as under:-

a) Rs. 100 for Wet (Paddy) cultivation
b) Rs. 200 for sugarcane cultivation

(5) For item (ii) of Sub-section (1) of section 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, the following item shall be substituted, namely:-

"(ii) different in respect of water supplied, made available or used from different irrigation works, and when the water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown or which may be grown on such land;"

Chandappa

(CHANDAPPA PATEL),
Secretary to Government,
Public Works & Electricity Deptt.

rln.

10/8/65

THE TABLE

Description of wet land (1)			Rate of assessment payable for single crop wet land per acre. (2)		Rate of assessement payable for double crop wet land per acre. (3)	
Class of, and extent of ayacut under Government source of irrigation.	Number of settlement taram	Settlement classification or bhagana	Minimum	Maximum	Minimum	Maximum
(a)	(b)	(c)	(a)	(b)	(a)	(b)
I. 30,000 acres and above	(a) 1 to 5	16 to 12	Rs. 20.00	Rs. 24.00	Rs. 30.00	Rs. 86.00
	(b) 6 to 8	11½ to 9	Rs. 15.00	Rs. 18.00	Rs. 22.50	Rs. 27.00
	(c) 9 & above	8½ and below	Rs. 12.00	Rs. 15.00	Rs. 18.00	Rs. 22.50
II. 5,000 acres and above but below 30,000 acres	(a) 1 to 5	16 to 12	Rs. 15.00	Rs. 18.00	Rs. 22.50	Rs. 27.00.
	(b) 6 and above	11½ and below	12.00	Rs. 15.00	Rs. 18.00	Rs. 22.50
III. 50 acres and above but below 5,000 acres.	All tarams.	All Bhaganas	9.00	Rs. 14.00	Rs. 13.50	Rs. 21.00
IV. Below 50 acres	All tarams	All Bhaganas	6.00	Rs. 12.00	Rs. 9.00	Rs. 18.00

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ANNEXURE I. C.195/65.

Average Rate of Assessment per acre for the different Classes of Land.

Name of the District.	MINIMUM RATES.			MAXIMUM RATES.		
	Dry.	Wet.	Garden.	Dry	Wet	Garden
1. Kolar ...	0-15-0	4-12-1	3-10-10	3-8-0	10-0-0	12-0-0
2. Mysore ...	0- 7-5	1-13-5	2- 0- 0	2-12-0	13-4-0	13-4-0
3. Mandya ...	0- 7-0	3- 8-5	1- 6- 0	2-10-0	14-4-0	15-0-0
4. Chitradurga ...	0-4-0	2-0-11	1-10-3	2-6-0	7-8-0	10-0-0
5. Hassan ...	0-4-7	3-0-2	3-2-1	3-4-0	12-8-0	12-8-0
6. Shimoga ...	0-2-3	1-14-6	2-6-0	2-14-0	8-0-0	20-0-0
7. Dharwar ...	1-1-0	7-10-0	6-0-0	3-15-0	15-0-0	9-0-0
8. Bijapur ...	1-0-0	4-0-0	1-13-0	8-0-0	8-0-0	8-0-0
9. Belgaum ...	1-1-6	1-7-6	3-0-0	3-8-0	15-0-0	12-2-0
10. North Kanara ...	0-8-0	1-0-0	4-0-0	1-2-0	8-8-0	14-0-0
11. Gulbarga ...	0-14-3	5-3-8	3-2-3	2-12-0	15-0-0	12-0-0
12. Bidar ...	1-6-0	3-8-0	2-12-0	3-1-6	8-0-0	15-0-0
13. Raichur ...	1-8-0	8-0-0	6-0-0	2-0-0	15-0-0	15-0-0
14. Coorg ...	0-4-0	0-12-0	2-0-0	2-0-0	5-0-0	8-0-0
15. South Kanara	1-8-0	7-14-0	9-0-0	2-0-0	11-4-0	9-0-0
16. Bellary ...	0-11-0	4-3-6	4-0-0	5-0-0	12-0-0	19-8-0
17. Bangalore ...	0-11-10	3-1-7	2-1-4	3-8-0	10-0-0	12-0-0
18. Tumkur ...	0-3-7	0-10-0	2-4-3	2-12-0	9-0-0	12-0-0
19. Chickmagalur	0-3-1	2-7-11	1-13-8	*3-8-0	9-8-0	16-0-0

*Since reduced to 2-12-0.

Annexure II. C.195/65.

LAND REVENUE ASSESSMENT IN ANDHRA PRADESH IN THE YEAR 1960-61.

Name of the District.	Wet Rates.		Garden Rates.	
	Maximum	Minimum.	Maximum.	Minimum.
ANDHRA AREA:	Rs. P.	Rs. P.	Rs. P.	Rs. P.
1. Srikakulam ...	9.50	1.25		
2. Visakhapatnam ...	9-50	2.00		
3. East Godavari ...	14.25	1.94		
4. West Godavari ...	14.25	1.94		
5. Krishna ...	11.88	3.00		
6. Guntur ...	12.50	2.00		
7. Nellore ...	9.50	2.00		
8. Kurnool ...	10.00	2.00		
9. Ananthapur ...	10.12	1.12		
10. Cuddapha ...	10.00	2.00		
11. Chittoor ...	10.00	2.00		
TELANGANA AREA:				
1. Hyderabad ...	14.57	10.28	14.57	10.28
2. Medak ...	18.85	14.57	18,85	14.57
3. Mahabubnagar ...	17.14	10.28	13.71	10.28
4. Nizamabad ...	17.14	12.00	17.14	12.00
5. Warangal ...	17.14	8.57	8.57	8.57
6. Khammam ...	15.43	10.28	10.28	8.57
7. Karimnagar ...	15.43	8.57	15.43	8.57
8. Nalgonda ...	18.00	8.57	15.43	8.57
9. Adilabad ...	12.85	6.85	12.85	6.85

Note: In Telangana area Garden Rates (Lift have not been given) as the lands hitherto taking water by lift have been classified as dry.

ANNEXURE III.

THE WET ASSESSMENT RATES OBTAINING IN MADRAS STATE.

Name of district	Wet.		Wet. (Double crop)
	Maximum	Minimum	
	Rs. A.	Rs. A.	Rs. A.
Chingleput ...	10.0	1.8	15.0
North Arcot ...	10.12	1.8	15.0
South Arcot ...	11.11	3.0	16.1
Salem (North) ...	10.12	1.8	...
Selem (South) ...	13.15	1.9	20.4
Trichirapalli ...	14.4	1.0	21.6
Thanjavur ...	16.10	1.12	24.15
Madhurai ...	11.14	2.0	15.15
Ramanathapuram ...	15.0	2.4	15.4
Tirunelveli ...	15.0	2.4	22.8
Coimbatore ...	13.12	2.14	20.10
Niligiris ...	3.8	0.10	Nil.

ANNEXURE IV. C.195/65.

The wet assessment and the water rates on lands irrigated under the projects constructed during the Plan periods.

Name of the Project.	Assessment on wet lands per acre.	Water rates on dry lands per acre.
1. Manimuthar Project.	Classification of the existing tanks served by the project upgraded as Class I source.	Rs. 10 per acre for main canal and Rs. 12.50 for Tambaraparani.
2. Sathanur Reservoir Project.	S.C. - Rs.15; D.C.-Rs.20 and C.D.C. Rs.22.50.	I Crop Rs.15; II crop Rs.7.50; and III crop Rs.3.75.
3. Amaravathi Reservoir Project.		Plantain, Sugarcane, Cocoanut - Rs. 20/- Paddy - Rs. 15/- Millets - Rs. 7.50 P.
4. Krishnagiri Reservoir Project.	S.C.Rs.15, D.C.Rs.20 and C.D.C. Rs. 22.50 P.	I Crop- Rs.15, II Crop- Rs.7.50 and III Crop- Rs.3.75P.
5. Mettur Canal Scheme.	...	Plantain, Sugarcane, Cocoanut - Rs. 20/-. Paddy - Rs. 15/- Millets - Rs. 7.50P.
6. Lower Bhavani Projects.	...	Plantain, Sugarcane, Cocoanut - Rs. 20/-. Chillies Rs. 15/- Tobacco, etc. Rs. 15/- Paddy, Rs. 15/- Gingelly Rs. 10/- Millets Rs. 7.50
7. Kodayar project.	...	Rs.0.75P to Rs.7/-
8. Vidur Project.	...	Rs. 10/- proposed but not yet finalised.
9. Pullambadi canal scheme.	Classification of the existing tanks upgraded as Class II sources.	Rs.I Crop, 10/-, II crop - Rs.5/-, III Crop - Rs.2.50P.
10. New Kattalai High level canal.	Classification of the existing tanks upgraded as Class I source.	I crop- Rs.10/-, II crop - Rs.5/-, III Crop - Rs. 2.50P.
11. Vaigai Reservoir Project.	Madurai Rs.14.37P and Rs.15.62P per acre.	Rs. 10/- per acre.
12. Parambikulam Aliyar Project.		Wet crops Rs. 25/- per acre. Dry crops Rs. 15/- per acre.

ANNEXURE V. C.195/65.

THE MADRAS IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION) ACT 1955 (MADRAS ACT III OF 1955) AS AMENDED BY THE MADRAS IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AMENDMENT ACT, 1963 (MADRAS ACT 32 OF 1963).

Section 4-A. Levy of Betterment contribution on lands in the new ayacut:--

The Government shall be entitled to levy a betterment contribution from the landholder on every acre of land in any new ayacut in accordance with the rates specified in the schedule:

Provided that no betterment contribution shall be levied on any land in any new ayacut under notified work, the cost of which does not exceed one lakh and fifty thousand rupees.

THE SCHEDULE.

Schedule of rates per acre.

NEW AYACUT

	Wet Zone.	Intermediary Zone.	Irrigated dry Zone.
	1. Rs. P.	2. Rs. P.	3. Rs. P.
BLOCK A ...	200.00	170.00	140.00
BLOCK B ...	180.00	150.00	120.00
BLOCK C ...	160.00	130.00	100.00
BLOCK D ...	140.00	110.00	80.00

Provided that landholders of lands which were unirrigated immediately before the execution of the notified work and which are newly assured with the supply of water for two wet crops as a result of the execution of the said notified work shall pay betterment contribution at the rate of fifty rupees per acre in addition to the rates specified in this Schedule.

ANNEXURE VI.

THE ANDHRA PRADESH IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND ADVANCE BETTERMENT CONTRIBUTION ACT, 1965 - AS AMENDED BY THE ANDHRA PRADESH IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION) AMENDMENT ACT, 1964.

Section 4.-

The amount of contribution or advance contribution payable by an owner for any land in respect of a work shall be so fixed as not to exceed one half of the increase or the estimated increase in value of the land, on account of the completion of the construction, expansion or alteration of the work. Such increase or estimated increase in value shall be the amount or the estimated amount, by which the value of the land on the date of the completion of ~~xxx~~ such work, exceeds or is likely to exceed the value of the land on the land on the date of commencement of that work.

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) ORDINANCE, 1965.

An ordinance further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, as ammended by act No 8 of 1964.

Whereas neither the Mysore Legislative Assembly nor the Mysore Legislative Council is in session and the Govt. of Mysore is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act No.28 of 1957), as ammended by act No 8 of 1964.

Now therefore in exercise of the powers conferred by clause (1) of Article 213 of the constitution of India, the Governor of Mysore is pleased to promulgate the following ordinance:-

1) SHORT TITLE: This ordinance may be called the Mysore Irrigation (Levy of Betterment Contribution and water Rate (Amendment) Ordinance, 1965.

2) AMENDMENT OF SECTION 2: In Sub-section (1) of Section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate, Act 1957 (Mysore Act No.28 of 1957 and as inserted by Act 8 of 1964, the following clauses after clause(f) viz., (f-a), (f-b), and (f-c) shall be omitted.

(Contd..)

3. AMENDMENT OF SECTION 4:- In Section 4 of the principal Act and as substituted by Act 8 of 1964 the following clauses deemed to have been inserted:

For Section (2) (a) viz. "The rate of basic contribution shall be where the land is or has been benefitted by:-

(i) a Major irrigation work or medium irrigation work, Rupees Five hundred per acre and

(ii) a minor irrigation work, rupees four hundred per acre,

the following shall be substituted as 2(a).

" 2(a): The rate of basic Betterment contribution leviable upon the lands irrigated by irrigation works shall be fixed at Rs.400/- per acre. "

For sub-section 2(b) of Section 4 viz., "The rate of special benefit contribution shall be where water is made available or is available from the work for the land,

(i) for not less than eight months in a year, rupees twenty five per acre p.a., and

(ii) for not less than three months but less than eight months in a year, rupees twelve and a half per acre p.a. "

the following shall be substituted as 2(b)

" The rate of special Benefit Contribution leviable upon the lands shall be as under.-

1) Rs.200/- per acre for wet (paddy) cultivation and garden crops.
2) Rs.400/- per acre for Sugar-cane cultivation. "

Amendment of Section 10:

For item (ii) of sub-section (1) of Section 10 of the Act, the following item shall be substituted viz.-

(Contd...)

"(ii) different in respect of water supplied, made available or used from different ~~different~~ Irrigation ~~on~~ works, and when water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown or which may be grown on such land.

GOVERNOR OF MYSORE

The above draft ordinance is for approval of the cabinet.

SECRETARY TO GOVERNMENT,
P.W.&E.DEPARTMENT.

GOVERNMENT OF MYSORE

No.PWD 47 GIG 59.

Mysore Government Secretariat,
Vidhana Soudha,
Bangalore, dated 20th August, 1960
Shravana Saka era 1882.

Notification.

In exercise of the powers conferred by sub-section (3) of section 1 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957(Mysore Act No.28 of 1957), the Government of Mysore hereby appoints the first day of September 1960, as the date on which the said act shall come into force.

By Order and in the name of the
Governor of Mysore,

Sd/-C,M.Venkatesa Das,
Deputy Secretary to Government, PWD(I).

To

The Compiler, Mysore Gazette, for favour of immediate Publication in the next issue of the Gazette.

Copy forwarded for information and necessary action to:-

The Chief Engineer(I&PH), Mysore, Bangalore.

The Chief Engineer, Irrigation Projects, Munirabad.

The Chief Engineer(General), Mysore, Bangalore.

The Divisional Commissioner, Belgaum/Gulbarga/Mysore and Bangalore.

:COPY:

CABINET NOTE.

Sub: Levy of Water Rates and Betterment contribution:

....

The question of levy of water rates and Betterment Contribution was ~~again~~ considered in the Cabinet Meeting held on 20-8-1965 and the following decisions were taken ~~by the Cabinet~~:-

(1) The Water Rates for lands irrigated by irrigation works with an achkat of above 100 acres, shall be as follows:-

I.	(a) For Single Wet (Paddy) Crop.	..	Rs.18/- per acre.
	(b) For double Wet (Paddy) Crop.	..	Rs.25/- per acre.
II.	For Sugarcane Crops:		
	(a) of 11 months duration.	..	Rs.45/- per acre.
	(b) of 16 to 18 months duration.	..	Rs.60/- per acre
III.	For Cotton and Groundnut and other Cash Crops:	..	Rs.15/- per acre.
IV.	For Millets and Pulses.	..	Rs.7.50 do
V.	For all Garden Crops.	..	Rs.20/- do
VI.	For Manurial Crops.	..	Rs.4/- do

(2) The Water Rates for lands irrigated by Irrigation works with an achkat of 100 acres and below shall be as follows:-

I.	(a) For Single Wet (Paddy)Crop.	..	Rs.12.50 per acre.
	(b) For Double Wet (Paddy)Crop	..	Rs.18.75 do
II.	For Sugarcane Crop.	..	Rs.30/- do
III.	For Cotton, Groundnuts and other Cash Crops.	..	Rs.7.50 do
IV.	For Millets and Pulses.	..	Rs.5/- do
V.	For Garden Crops.	..	Rs.12.50 do
VI.	For Manurial Crops.	..	Rs.3/- do

... 2/

(3) The basic Betterment Contribution leviable upon the lands irrigated by irrigation works shall be fixed at Rs.400/- per acre.

(4) The Special Benefit Betterment Contribution leviable upon the above lands shall be fixed as under:-

(a) Rs.200/- per acre for wet (paddy) cultivation;
(b) Rs.400/- per acre for sugarcane cultivation;
(so that the Betterment contribution will be Rs.800/-, Rs.600/- and Rs.400/- per acre for irrigated land under sugarcane, paddy and other crops respectively)

~~With a view to giving effect to the decision of the Cabinet about the water rates~~, The following amendment to Sec.10 of the Mysore Irrigation (Betterment Contribution and Water Rate) Act was suggested which has also been approved by the Cabinet as under:

(5) For item (ii) of sub-section (1) of Section 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act. 1957. the following item shall be substituted, namely:-

"(ii) different in respect of water supplied, made available or used from different irrigation works and when water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown or which may be grown on such land."

(6) With a view to implementing the decision of the Cabinet in regard to the Betterment levy, a draft amendment Bill was prepared and referred to the Law Department for scrutiny. The subject was subsequently discussed with the Joint Secretary, Law Department (Shri M.A.Srikrishna). The Law Department is of the view that the principles on the basis of which the Betterment contribution (Basic betterment contribution and the Special benefit betterment contribution) is to be imposed, will have to be indicated in the Act itself.

could be no levy of special benefit contribution at all. Section 3 of the Act provides for the levy of tax called betterment contribution and consequently a tax payable should be determinable with some precision. If the contribution is relatable to the crop grown on any land, it would be difficult to fix the rate in circumstances indicated above. Consequently it would not be possible to determine the rate in a definite manner."

"The betterment contribution levied under the Act will be in the nature of a tax on land falling under Entry 49 of List II (State List) of the Seventh Schedule to the Constitution of India. A tax levied under the Constitution will have to be based on some principles laid down in the law itself. It is, therefore, necessary to indicate the principles on the basis of which the betterment contribution is imposed. The basic contribution as also the special benefit contribution will have to be levied on the basis of the principles laid down in the Act. Betterment contributions are normally levied when the value of any land increases consequent upon any work undertaken by the State. In urban areas when improvement schemes are effected by a municipal body or improvement trust, provision is usually made for levy of a 'Betterment Fee' which will be a proportion of increase in the market value due to the execution of the improvement scheme. Similarly, when an irrigation work is executed and water is made available, a tax can be levied as 'betterment contribution' taking into consideration the increase in value of lands in question.

It may be possible to provide for a levy of betterment contribution at a specified rate subject to the condition that it should not, in any case, exceed the increase in the market value of the land benefited by the work undertaken by Government. When such a provision is made, the authority determining the contribution payable, may itself determine whether the contribution is within the scope of the condition relating to the increase in value, or privision may be made requiring the party concerned to move the appropriate authority to fix the contribution in the light of the actual increase in value. Since the contribution is relatable to the increase in market value of the land, provision may have to be made to enable the persons concerned to have the question finally determined by a court of law. If, provisions on these lines are made in the Act, it may be possible to sustain the validity of the levy."

(Z) In the light of above opinion expressed by the Law Department, it is for consideration of the Cabinet whether we should fix the rate for betterment contribution only without resorting to two kinds of levy of betterment contribution.

The Law Department also desired that in view of several writ petitions pending in the High Court the Advocate General be consulted before finalising the proposed amendment bill.

However, a draft amendment bill was prepared in pursuance of the above opinion of the Law Department and was discussed with the Chief Minister on 6-10-65 when the Secretary, Law Department, Joint Secretary, Law Department and the Chief Engineer (Irrigation Projects) were present. The Chief Minister desired that the draft bill be shown to the Advocate General and finalised. In view of the above the subject was further discussed With the Advocate General on 7-10-1965 and on 11-10-1965 when the Secretary, Law Department, Joint Secretary, Law Department ~~and the Deputy Secretary, Finance Department~~ also were present. The Advocate General expressed ~~certain~~ doubts regarding possibilities of sustaining certain provisions made in the draft amendment bill and suggested certain changes in the provisions made for levy of Betterment Contribution to be in conformity with the Constitution of India.

The draft bill in pursuance of the ~~above~~ discussions and the above suggestion of the Advocate General has been prepared and further scrutinised in a meeting held on 12-10-1965 at Advocate General's Residence and was finalised incorporating the suggestion made by the Advocate General.

In his letter dated 13-10-1965 addressed to the Joint Secretary, Law Department, the Advocate General, on perusal of the draft Bill placed before him has opined as follows:-

"Section 4 provides that the contribution shall be, where the land is or has been benefitted by:

(i) a major irrigation work or a medium irrigation work, Rs.500/- per acre.

(ii) a minor irrigation work, Rs.400/- per acre.

Sub-section(2) (b) provided for the rate of special benefit contribution.

Sub-section (4) provided for an enquiry to be made by the Betterment Levy Officer after a notification under sub-section (2) of section 3 and to determine the amount of contribution payable in respect of different lands. Under sub-section (5) provision is made for appeal.

The other provisions relate to the mode of payment.

The provisions of the amended Act and the levy thereunder have been challenged in some writ petitions now pending in our High Court. The ground of challenge mainly is that the provisions are violative of Fundamental Rights under Article 19 (1)(f), in so far as the restrictions are wholly unreasonable. The procedure for fixing the betterment levy is also illusory. If, according to the contention, the notification states under section 3(2) that certain lands are benefitted by such irrigation work, then the enquiry officer under section 4(4) has nothing to inquire except to multiply the acreage of the land by 500 or 400 as the case may be. Further, according to the contention this fixation of 500 or 400 is arbitrary and has no relevance to the increase in value

of the land on account of the construction of the work, for which alone the betterment levy is sought to be levied. It was also urged that in some cases, the increase in the value of the land is very much less than Rs.400/- per acre and on that ground the act is confiscatory in nature. These are the several objections which were urged against the validity of the Travancore-Cochin Land Tax Act 1955, (as amended by Act X of 1957). The Supreme Court upheld some of these objections and held that the Act was confiscatory in nature, that the Levy was discriminatory and offended Article 14 of the Constitution and finally the Supreme Court struck down the act as unconstitutional. In that Act State wanted to levy a tax at a flat rate of Rs.2/- per acre. Evidence was given that the petitioner before the Supreme Court who owned more than 25,000 acres of forest land and who had on that account to pay a tax of Rs.50,000/- per year was deriving income from the said forest lands ~~xxxxxxxxx~~ not more than 3,100 per year. This according to their Lordships, was sufficient to indicate among other reasons that the act was confiscatory.
It was also urged and that contention was accepted by the Supreme Court that the levy at a flat rate of Rs.2/- per acre on all lands irrespective of their basic difference would be equally discriminatory. But it is equally well-settled that in taxing statute the State need not proceed to differentiate with mathematical exactitude the different objects of the statute and wide discretion is given to the Legislature to classify and differentiate, provided that such classification or differentiation has a rational basis and that basis is relevant for the purpose of achieving the objec

~~of achieving the object of taxation~~

of taxation. Applying these well-known principles and in the light of the judgement of the Supreme Court in (1961) Supreme Court 552 referred to above, I should think that the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 as amended by Mysore Act VIII of 1964, in so far as it relates to levy of betterment contribution is open to objection.

A provision that should be made must take note of the difference in rise of value in different lands.

The aggrieved party should have an opportunity to raise objections if any as to the levy of betterment contribution. This opportunity to raise objection may be given at one stage or at two stages, at one stage, when a notification is made that the lands are benefitted by such irrigation work; at a later stage when the amount of contribution is determined. Both these stages may be combined and opportunities may be given to raise objections on both grounds.

A draft prepared has been placed before me. In Section 4 in the said draft opportunity is given to the land-holders whose lands are notified to be benefitted by the irrigation work to object to the inclusions of the lands as irrigable, also to the inclusion of the lands as lands of any specified nature and the extent of irrigability and also in respect of the basis of the claim on which the betterment contribution is levied. Provision is also made for individual land-holders to be heard before betterment contribution is levied. The levy of contribution also is half the difference between the market price of the land prevailing before the commencement and after the completion of the work. Therefore, the levy cannot

be said to be confiscatory.

The objections which might be urged against the constitutionality have been substantially met by these draft suggestions.

8. There have been a number of writ petitions against the provisions of betterment contribution. Certain very important legal issues have been raised. With a view to overcoming the difficulties arising out of these writ petitions, it appears necessary, that provisions ~~in the Act~~ enunciating the principles will have to be made in the Act itself. An attempt has been made to make such provisions in the Act by introducing suitable amendment to the existing Act. If litigation is to be avoided or kept at the minimum level, it appears, essential that the rate of betterment contribution should be as reasonably low as possible so that the land-holder should be dissuaded from resorting to the legal steps as such an attempt should appear to him a affair ~~prohibitively~~ costly when compared to the payment of the rates already specified.

9. Another important point arising out of the opinion expressed by the Law Department relates to the method of imposition of those contribution. The existing provisions of the Act and also the decision taken by the Cabinet specifies the imposition of the betterment contribution on the basis of the period for which the water is made available or the nature of the crops grown. The Law Department strongly feels that the betterment contribution should not have relation to quantum of water made available or the crops grown but on the other hand should have relation to the appreciation in the value of the land as a result of the construction of the projects benefiting the land. There should also be some provision enabling the landholder to seek redressal in a court of law if he feels aggrieved by the decision of the authorities determining the betterment contribution.

10. Keeping in view various aspects mentioned above, it is felt that the betterment contribution may have relationship to the nature of source of irrigation from which the water is made available for irrigation. For instance, the rate of betterment contribution can be different for different kinds of sources of irrigation viz., we may prescribe one rate for lands irrigated by major and medium projects and another rate (a little lower) for the lands benefited by the minor irrigation works. It is suggested that a rate of Rs.400 per acre be prescribed for the lands benefited by the minor irrigation projects and Rs.500 per acre for lands to be benefited by major and medium irrigation works.

11. If it is agreed that the rate of betterment contribution should have a direct relationship to the rise in the value of land benefited, then the point for consideration would be as to what part of such a rise should be the basis for determination of the rate. The Andhra Pradesh Government have, in their Act, limited the betterment contribution to 50% of the rise in the value of the land benefited. We may also accept the same principle. The relevant provision of law obtaining in Andhra Pradesh is contained in Annexure I.

12. If the above suggestions are acceptable then the draft amendment Bill incorporating the various suggestions made and consequential amendment to other sections of the Act is also commended for approval of the Cabinet.

12. The points for consideration of the Cabinet are as under:-

(i) Whether there should be only one kind of betterment contribution instead of the existing provision of levying basic betterment contribution and the special benefit betterment contribution.

(ii) Whether the rate of betterment contribution may ~~should~~ be fixed as follows:-

a) Rs.400 per acre for the lands ~~irrigated~~ benefitted by works having an achkat of not less than one hundred acres and not more than one thousand acres of land;

b) Rs.500 per acre for the lands ~~irrigated~~ benefitted by the irrigation sources with an achkat exceeding one thousand acres of land.

(iii) Whether the draft amendment Bill as proposed be approved.

Chandappa

(Chandappa Patel) 21/10/67
Secretary to Government,
P.W & E Department

The points for consideration of the Cabinet are as under:-

(1) Whether there should be only one kind kind of Betterment Contribution instead of the existing provision of levying basic betterment contribution and the special benefit contribution.

(2) Whether the Betterment Contribution may be fixed as follows:-

~~¼xAmountxofxbettermentxcontributionxx~~

The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration:

Provided that the amount of betterment contribution payable in respect of any land shall not be more than five hundred rupees per acre:

Provided further that no betterment contribution shall be leviable in respect of any land, -

(i) which is unarable (kharab); or

(ii) benefitted by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu, which is not

capable of irrigating more than one hundred acres of land:

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the land-holder shall be excluded.

3. Whether the draft amendment bill as proposed be approved.

It may be mentioned that if this proposal is given effect during the year 1965-66, the amendment will have to be passed by the Legislature during the current session.

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ANNEXURE I

THE ANDHRA PRADESH IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND ADVANCE ACT,1955- AS AMENDED BY THE ANDHRA PRADESH IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION) AMENDMENT ACT,1964.

Amount of contribution or advance contribution.

Section 4. The amount of contribution or advance contribution payable by an owner for any land in respect of a work shall be so fixed as not to exceed one half of the increase or the estimated increase in value of the land, on account of the completion of the construction, expansion or alteration of the work. Such increase or estimated increase in value shall be the amount or the estimated amount, by which the value of the land on the date of the completion of such work, exceeds or is likely to exceed the value of the land on the date of commencement of that work."

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) BILL. 1965

ABill to further amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Sixteenth year of the Republic of India as follows:-

1. Short title and commencement.- This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1965.

(2) Sections 2, 3, 4 and 5 shall be deemed to have come into force on the first day of September 1960 and section 6 shall be deemed to have come into force on the twenty-seventh day of February 1964.

2. Amendment of section 2.- In section 2 of the Mysoro Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1957) (hereinafter referred to as the principal Act,-

(1) in clause (ba),-

for the words "basic contribution and special benefit contrivution" the words 'betterment contribution' shall be substituted.

(2) in clause (fc),-

(i) the words "costing in respect of construction, restoration, expansion or alteration, more than rupees one lakh" shall be omitted.

(ii) for the words "not more than one thousand acres of land" the words "not less than one hundred acres and not more than one thousand acres of land" shall be substituted.

3. Substitution of new section to section 4:-

For section 4 of the principal Act, the following section shall be substituted, namely:-

"4. Amount of contribution payable--

(1) The amount of betterment contribution payable

in respect of lands specified under section 3 shall be, where the land is or has been benefited by--

(i) a major irrigation or medium irrigation work--~~Rs.500~~ five hundred rupees per acre; and

(ii) a minor irrigation work--~~Rs.400~~ four hundred rupees per acre.

Provided that the Betterment Contribution shall not be payable in respect of uncultivable land:

Provided further that no landholder ~~or holder~~ shall be liable to pay as Betterment contribution in respect of such land any amount exceeding one half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work, and the market value after the date of completion of such construction, restoration, expansion or alteration:

Provided also that for purpose of the preceding proviso the increase in the market value of the land consequent upon any improvement of the land made by the land holder shall be excluded.

(2) The Contribution shall be payable by a landholder in accordance with the provisions of Section 6.

(3) After the issue of a notification under sub-section(2) of Section 3 the Betterment Levy Officer shall after making such enquiries, if any, as he considers necessary, by order determine, the amount of contribution payable in respect of different lands.

(4) (a) Any landholder who considers that the amount of Betterment Contribution levied in respect of any land is more than the amount payable by him under the second proviso to sub-section (1), may object to such levy by an application made to the Betterment Levy Officer setting out the particulars on the

basis of which such landholder determines the value~~ble~~ of the land before the date of construction, restoration, expansion or alteration of the irrigation work and particulars on the basis of which he determines its value after the date of completion of the construction, restoration, expansion or alteration of the work and such other particulars as may be necessary for ~~a proper~~ proper determination of the increase in value of the land.

(b) An application under ~~section~~ clause (a) shall be made within a period of ninety days from the date of the ~~notification~~ order under sub-section 3.

(5) On receipt of an application under sub-section 4, the Betterment Levy Officer shall proceed to enquire into the objections and after considering the evidence adduced by the applicant and all other relevant factors, if he is satisfied that the one half of ~~the~~ increase in value of the land is less than the amount specified in sub-section (1), make an order that the amount payable as betterment contribution by the applicant shall be an amount equal to one half of the actual increase in value as determined by the Betterment Levy Officer. If the Betterment Levy Officer is not satisfied ~~with~~ that the amounts specified in sub-section (1) in respect of the land is more than one half of the increase in value of the land, he shall dismiss the application.

(6) The Government, or the landholder aggrieved by an order under sub-section 5, may within ~~the~~ sixty days from the date of the order appeal to the court of the Civil Judge having jurisdiction over the area in which the land is situated and the court of Civil Judge may pass such orders on the appeal as ~~he~~ it deems fit.

(7) Any order passed by the court of Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the court of Civil Judge, the orders of the Betterment Levy Officer under sub-section 5 and if no objection is preferred to the Betterment Levy Officer under sub-section 4 the amount specified in sub-section (1) shall be final and shall not be liable to ~~be~~ questioned in any court of law.

4 ~~3~~. Amendment of section 5.- In section 5 of the principal Act,--

(1) In sub-section (1) for the words 'basic contribution' the word 'contribution' shall be substituted and at the end of the sub-section the following proviso shall be added,

"Provided that no notice of demand shall be served on a land holder who has made an application under subsection (4) of section 4 until the application made by him is finally disposed of."

(2) In sub-section (2) for the words 'basic contribution' the word 'contribution' shall be substituted.

(3) Sub-section (3) shall be omitted.

5 ~~4~~. Amendment of ~~xxxxxxxx~~ section 6.- In section 6 of the principal Act for the words 'basic contribution' wherever ~~it~~ They occurs the word 'contribution' shall be substituted.

6 ~~4~~. Amendment of section 10.- In sub-section (1) of section 10 of the principal Act, for sub-clause (ii) the following sub-clause shall be ~~and shall always be deemed to have been~~ substituted, namely:-

"(ii) different in respect of water supplied, made available or used from different irrigation works and when water is supplied, made available or used for irrigation of any land, with or without

(2) ... order ... of the court of Civil Judge on ... referred to ... under sub-section (6) and subject to the ... clause (i) of this court of Civil Judge, the order of the settlement Levy Officer under sub-section 5 and if no objection is preferred to the settlement Levy Officer under sub-section 4 the amount specified in sub-section (1) shall be final and shall not be liable to the questioned in any court of law.

4. Amendment of section 5.- In section 5 of the principal Act,-

(1) In sub-section (1) for the words 'basic contribution' the word 'contribution' shall be substituted and at the end of the sub-section the following proviso shall be added,

"Provided that no notice of demand shall be served on a land holder who has made an application under ... of section 4 until the application ... finally disposed of."

(2) In sub-section (2) for the words 'basic contribution' the word 'contribution' shall be substituted.

(3) Sub-section (3) shall be omitted.

5. Amendment of amended section 6.- In section 6 of the principal Act for the words 'basic contribution wherever it occurs the word 'contribution' shall be substituted.

6. Amendment of section 10.- In sub-section (1) of section 10 of the principal Act, for sub-clause (ii) the following sub-clause shall be and shall always be deemed to have been substituted, namely:-

"(ii) different in respect of water supplied, made available or used from different irrigation works and when water is supplied, made available or used for irrigation of any land, with or without

T. KRISHNA RAO, M.A.,B.L., GOVERNMENT OF MYSORE

Advocate General.

PERSONAI

HIGH COURT BUILDINGS,
BANGALORE-1.

D~~O~~. No. 5519/65-66.

CONFIDENTIAL.

Dated. 12 Oct. ..... *196*5.

Sri M.A. Sri Krishna,
Joint Secretary to Government,
Law Department,
Bangalore.

12/10/65

Sir,

Re: Proposed amendment to Section 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act.

1. So far as the levy of water rate is concerned, the scheme proposed is to levy separate charge for the water that is supplied or used for purpose of irrigation from any work belonging to or constructed on behalf of the Government, or where water is made available by the Government for the use of any benefitted land in respect of which betterment contribution is levied.

2. Therefore, it is a charge for water supplied or made available.

3. In clause (a) as it is, water rate to be charged is made to depend upon the levy of betterment contribution. This may be avoided by making water rate leviable independent of the levy of betterment contribution provided the other conditions are satisfied.

4. The amendment now proposed to levy different rates in respect of water supplied or made available etc., from different irrigation works with or without reference to the crop or crops grown or which may be grown on such land I think it is permissible. It is open to the Legislature to introduce the levy of special water rate in respect of any special work. Having regard to the investments made in different works, it may be necessary to treat these lands fed by those different works differently. Similarly the supply of water may vary

..2..

vary for the needs of cultivation if the crops raised are different. Accordingly, different rates have been worked out where different crops are raised or sought to be raised.

5. The provision is made also for the rules made by the Government fixing the rates to be placed before the Legislature and the Legislature may adopt it or modify it in any manner it chooses. There is therefore enough control by the Legislature over the rule-making power in fixing such rates.

6. What is sought to be charged is water rate. There is indication in the Act that the rate should be fixed differently when the lands are fed by water from different reservoirs and when water is supplied for different purposes. That may itself supply the guidance for the rule making power.

Yours faithfully,

(T.Krishna Rao)
Advocate-General.

T. KRISHNA RAO,
M.A., B.L.,
Advocate-General.

GOVERNMENT OF MYSORE

HIGH COURT BUILDINGS,
BANGALORE-1.

D.O. No. 5575/65-66

PERSONAL.

CONFIDENTIAL.

Dated. 13.October..1965

Sri M.A. Sri Krishna,
Joint Secretary to Government,
Law Department,
Bangalore.

Sir,

Sub: Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

..

The original Act namely The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 provided under Section 3 the levy of betterment contribution. Then Section 4 provided that subject to the Rules as may be prescribed, the Deputy Commissioner shall determine the contribution payable in respect of each of the lands mentioned in Section 3 after taking into account the increase in the capital value as estimated in the prescribed manner. Sub-section 2 thereof provided for inviting objections and suggestions from persons liable to pay the same and for consideration of such objections and suggestions. The determination of the levy shall be after the consideration of such objections and suggestions. Appeal is provided for in sub-section 4. Section 5 provided for a written notice of demand before contribution becomes payable.

These provisions are materially altered by the amendment Act VIII of 1964. In Section 3, apart from the verbal alterations in sub-section(1), sub-section(2) was added. In that sub-section provision is made that for the purposes of levy of betterment contribution the prescribed officer should notify

(i) the dates of commencement, completion, etc., of the irrigation work ;

..2..

(ii) the nature of the irrigation work, etc.,

and

(iii) the lands which in his opinion are benefitted by such irrigation work and different dates of commencement and completion of any irrigation work may be specified in respect of different lands benefitted by the same irrigation work depending upon the dates on which water is made available to such lands.

In sub-section(3) provision is made for aggrieved parties to move the Government for modification of the notification made by the prescribed officer under sub-section 2. It is further provided that the Government may suo moto direct such modification of the notification as it deems fit. Then Section 4 provides that the contribution shall be, where the land is or has been benefitted by :

(i) a major irrigation work or a medium irrigation work, Rs.500/- per acre.

(ii) a minor irrigation work, Rs.400/- per acre.

Sub-section(2) (b) provided for the rate of special benefit contribution.

Sub-section(4) provided for an enquiry to be made by the Betterment Levy Officer after a notification under sub-section(2) of section 3 and to determine the amount of contribution payable in respect of different lands. Under sub-section(5) provision is made for appeal.

The other provisions relate to the mode of payment.

The provisions of the amended Act and the levy thereunder have been challenged in some Writ Petitions now pending in our High Court. The ground of challenge mainly is that the provisions are violative of Fundamental Rights under

..3..

under Article 19 (1) (f), in so far as the restrictions are wholly unreasonable. The procedure for fixing the betterment levy is also illusory. If, according to the contention, the notification states under Section 3 (2) that certain lands are benefitted by such irrigation works, then the enquiry officer under Section 4 (4) has nothing to inquire except to multiply the acreage of the land by 500 or 400 as the case may be. Further, according to the contention this fixation of 500 or 400 is arbitrary and has no relevance to the increase in value of the land on account of the construction of the work, for which alone the betterment levy is sought to be levied. It was also urged that in some cases, the increase in the value of the land is very much less than Rs.400/- per acre and on that ground the act is confiscatory in nature. These are the several objections which were urged against the validity of the Travancore-Cochin Land Tax Act 1955, (as amended by Act X of 1957). The Supreme Court upheld some of these objections and held that the Act was confiscatory in nature, that the levy was discriminatory and offended Article 14 of the Constitution and finally the Supreme Court struck down the act as unconstitutional. In that Act, State wanted to levy a tax at a flat rate of Rs.2/- per acre. Evidence was given that the petitioner before the Supreme Court who owned more than 25,000 acres of forest land and who had on that account to pay a tax of Rs.50,000/- per year was deriving income from the said forest lands not more than 3,100/- per year.

year. This according to their Lordships, was sufficient to indicate among other reasons that the act was confiscatory. It was also urged and that contention was accepted by the Supreme Court that the levy at a flat rate of Rs.2/- per acre on all lands irrespective of their basic difference would be equally discriminatory. But it is equally well-settled that in a taxing statute the State need not proceed to differentiate with mathematical exactitude the different objects of the statute and wide discretion is given to the Legislature to classify and differentiate, provided that such classification or differentiation has a rational basis and that basis is relevant for the purpose of achieving the object of taxation. Applying these well-known principles and in the light of the judgment of the Supreme Court in (1961) Supreme Court 552 referred to above, I should think that the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act 1957 as amended by Mysore Act VIII of 1964, in so far as it relates to levy of betterment contribution is open to objection.

A provision that should be made must take note of the difference in rise of value in different lands.

The aggrieved party should have an opportunity to raise objections if any as to the levy of betterment contribution. This opportunity to raise objection may be given at on stage or at two stages, at one stage, when a notification is made that the lands are benefitted

benefitted by such irrigation work ; at a later stage when the amount of contribution is determined. Both these stages may be combined and opportunities may be given to raise objections on both grounds.

A draft prepared has been placed before me. In Section 4 in the said dfaft opportunity is given to the land-holders whose lands are notified to be benefitted by the irrigation work to object to the inclusion of the lands as irrigable, also to the inclusion of the lands as lands of any specified nature and the extent of irrigability and also in respect of the basis of the claim on which the betterment contribution is levied. Provision is also made for indivudual land-holders to be heard before betterment contribution is levied. The levy of contribution also is half the difference between ..ht market price of the land prevailing before the commencement and after the completion of the work. Therefore, the levy cannot be said to be confiscatory.

The objections which might be urged against the constitutionality have been substantially met by these draft suggestions.

Yours faithfully.

(T.Krishna Rao)
Advocate General.

SGS.

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) BILL, 1965.

A Bill to further amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Sixteenth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1965.

(2) Sections 2, 3, 4, 5 and 6 shall be deemed to have come into force on the first day of September 1960, and section 7 shall be deemed to have come into force on the twenty-seventh day of February 1964.

2. Amendment of section 2.- In section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1958) (hereinafter referred to as the principal Act),

(1) in clause (ba), for the words "basic contribution and special benefit contribution", the words "betterment contribution" shall be substituted;

(2) clauses (fa), (fb) and (fc) shall be omitted.

3. Amendment of section 3.- In section 3 of the principal Act, -

(1) in sub-section (1), for the words and figure "at the rates specified in section 4 in accordance with the provisions of this Act on land, which, in the opinion of the prescribed officer, is benefited", the words "in accordance with the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted;

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

4. Substitution of new section for section 4.- For section 4 of the principal Act, the following section shall be substituted, namely:-

"4. Amount of betterment contribution.- (1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration:

Provided that the amount of betterment contribution payable in respect of any land shall not be more than ~~five~~ three hundred rupees per acre:

Provided further that no betterment contribution shall be leviable in respect of any land,

(i) which is unarable (amarab), or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, amicut, bandhara, pond, spring pond, kunta, talaparige

or madugu, which is not capable of irrigating more than one hundred acres of land:

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement ~~on~~ of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) ~~of~~ of section 3 in respect of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The statement so prepared along with a public notice shall be published in the official Gazette and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state --

(a) their objections, -

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability; and

(b) in respect of payment of betterment contribution, the basis on which they claim that the amount of betterment contribution has to be computed

Such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenu district on which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being heard to every person who has made a statement under sub-section (3), make an ord specifying --

(a) the increase in value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work;

(b) the amount of betterment contribution payable in respect of the said lands; and

(c) the date from which such betterment contribution shall be payable.

(6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the

Court of the Civil Judge having jurisdiction over the area in which the land is situated and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) Any order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to be questioned in any Court of law."

5. Amendment of section 5.- In section 5 of the principal Act, -

(1) in sub-section (1) for the words "basic contribution", the word "contribution" shall be substituted, and at the end of the sub-section the following proviso shall be added, namely:-

"Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final.";

(2) in sub-section (2), for the words "basic contribution", the word "contribution" shall be substituted;

(3) sub-section (3) shall be omitted.

6. Amendment of section 6.- In section 6 of the principal Act, for the words "basic contribution", wherever they occur, the word "contribution" shall be substituted.

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7. Amendment of section 10.- In sub-section (1) of section 10 of the principal Act, -

(1) clause (a) shall be omitted;

(2) for item (ii), the following item shall be substituted, namely:-

"(ii) different in respect of water supplied, made available or used from different irrigation works, and when water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown or which may be grown on such land;".

= = = = =

13/10/65.
M. A. SRIKRISHNA,
Draftsman & Ex-Officio
Joint Secretary to the Government

Umar: 4
13.10.65

STATEMENT OF OBJECTS AND REASONS:

The Mysore Irrigation (Levy of Betterment Contribution Rule) Act, 1957, and amended by Act No. 8 of 1964, provides for the levy and collection of Betterment contribution and Water rates from lands benefitted by any irrigation work. It has been found that it is not possible for Government to levy different rates for supply of water from different sources i.e. Major and Medium irrigation projects and minor irrigation works and that this different classification cannot be justified under the law.

With a view to meeting certain Constitutional requirements, it is considered necessary that the provisions relating to the levy of Betterment contribution should be amended. Hence the amendment.

CABINET NOTE

PWD. 33 LBW-63

C.266/65

Sub: Levy of Water Rates and Betterment contribution:

The question of levy of water rates and Betterment contribution was considered in the Cabinet Meeting held on 20.8.1965 and the following decisions were taken:-

(1) The Water Rates for lands irrigated by irrigation works with an achkat of above 100 acres, shall be as follows:

I.	(a) For Single Wet (Paddy) Crop.	..	Rs.18/- per acre.
	(b) For double Wet (Paddy) Crop.	..	Rs.25/- per acre.
II.	For Sugarcane Crops:		
	(a) of 11 months duration.	..	Rs.45/- per acre.
	(b) of 16 to 10 months duration	..	Rs.60/- per acre.
III.	For Cotton and Groundnut and other Cash Crops:	..	Rs.15/- per acre.
IV.	For Millets and Pulses.	..	Rs. 7.50 do
V.	For all Garden Crops	..	Rs.20/- do
VI.	For Manurial Crops.	..	Rs.4/- do

(2) The Water Rates for lands irrigated by Irrigation works with an achkat of 100 acres and below shall be as follows:-

I.	(a) For Single Wet (Paddy) Crop.	..	Rs.12.50 per acre.
	(b) For Double Wet (Paddy) Crop.	..	Rs.18.75 do
II.	For Sugarcane Crop.	..	Rs.30/- do
III.	For Ctoon, Groundnuts and other Cash Crops.	..	Rs.7.50 do
IV.	For Millets and Pulses.	..	Rs.5/- do
V.	For Garden Crops	..	Rs.12.50 do
VI.	For Manurial Crops.	..	Rs.3/- do

Contd.

(3) The basic Betterment Contribution leviable upon the lands irrigated by irrigation works shall be fixed at Rs.400/= per acre.

(4) The Special Benefit Betterment Contribution leviable upon the above lands shall be fixed as under:-

(a) Rs.200/=, per acre for wet (paddy) cultivation;

(b) Rs.400/= per acre for sugarcane cultivation;
(so that the Betterment contribution will be Rs.800/=, Rs.600/= and Rs.400/= per acre for irrigated land under sugarcane, paddy and other crops respectively)

(5) The following amendment to Sec. 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act was suggested which has also been approved by the Cabinet as under:

'For item (ii) of sub-section (1) of Section 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, the following item shall be substituted, namely:-

(ii) differente in respect of water supplied, made available or used from difference irrigation works and when water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown or which may be grown on such land."

Regarding item No.5 of the above Cabinet decision, separate action has been taken on an amendment bill to amend Section 10 of Betterment Levy and Water Rate act, and the same is coming up before Legislature in the current Session.

(6) With a view to implementing the decision of the Cabinet in regard to the Betterment levy, a draft amendment Bill was prepared and referred to the Law Department for scrutiny. The subject was subsequently discussed with the Joint Secretary, Law Department (Shri H.A.Srikrishna). The Law Department is of the view that the principles on the basis of which the Betterment contribution (Basic betterment contribution and the Special benefit betterment contribution) is to be imposed, will have to be indicated in the Act itself

In regard to the Special benefit contribution, the Law Department is of the view that if a contribution is relatable to the crop grown on any land it would be difficult to fix the rate in view of the varying nature of the crops that would be grown in different years. Consequently, it would not be possible to determine the rate in a definite manner. During the discussion, the Joint Secretary, further mentioned that the betterment contribution had to have relation to the principle of appreication in the valuation of the land as a consequence of the irrigation works constructed by Government which would benefit the land. Therefore when once the betterment contribution is determined there is no case for levying special benefit contribution on the basis of crops grown. No principles, as such, could be laid down for imposition of such a levy. Any attempt to do so would be ultra-vires. He is of the firm view that there should not be any provision for levying Special betterment contribution. We should, according to him, content ourselves to levying only betterment contribution. The relevant extract of the opinion expressed by the Law Department on the two points mentioned above are given below:

"It is proposed to make provision for the levy of special benefit contribution on benefited lands at the rate of Rs.200 per acre for we (paddy) cultivation and at Rs.400 per acre for sugarcane cultivation." As stated by the Public Works Department the intention is to levy this contribution in instalments for a period of twenty years proppectively. This assumes that the same crop would be grown for a period of twenty years on any piece of land. But if in one year, paddy is grown grown on the same land, the levy being a lumpsum amount to be paid in instalments, the amount cannot possibly be varied merely because the crop grown is different. There may also be cases where no crop is grown in any year. There may also be cases in which although paddy or sugar-cane can be grown by the water made aviabble no crop is grown on the land. In such cases there

could be no levy of special benefit contribution at all. Section 3 of the Act provides for the levy of tax called betterment contribution and consequently a tax payable should be determinable with some precision. If the contribution is relatable to the crop grown on any land, it would be difficult to fix the rate in circumstances indicated above. Consequently it would not be possible to determine the rate in a definite manner."

"The betterment contribution levied under the Act will be in the nature of a tax on land falling under Entry 49 of List II (State List) of Seventh Schedule to the constitution of India. A tax levied under the constitution will have to be based on some principles laid down in the law itself. It is, therefore, necessary to indicate the principles on the basis of which the betterment contribution is imposed. The basic contribution as also the special benefit contribution will have to be levied on the basis of the principles laid down in the Act. Betterment contributions are normally levied when the value of any land increases consequent upon any work undertaken by the State. In urban areas when improvement schemes are effected by a municipal body or improvement trust, provision is usually made for levy of a 'Betterment fee' which will be a proportion of increase in the market value du to the execution of the improvement scheme. Similarly, when an irrigation work is executed and water is made available, a tax can be levied as 'betterment contribution' taking into consideration the increase in value of lands in question.

It may be possible to provide for a levy of betterment contribution at a specified rate subject to the condition that it should not, in any case, exceed the increase in the market value of the land benefitted by the work undertaken by Government. When such a provision is made, the authority determining the contribution payable, may itself determine whether the contribution is within the scope of the condition relating to the increase in value, or privision may be mad requiring the party concerned to move the appropriate authority to fix the contribution in the light of the actual increase in value. Since the contribution is relatable to the increase in market value of the land, provision may have to be made to enable the persons concerned to have the question finally determined by a court of law. If, provisions on these lines are made in the Act, it may be possible to sustain the validity of the levy.".

"The betterment contribution levied under the Act will be in the nature of a tax on land falling under Entry 49 of List II (State List) of Seventh Schedule to the constitution of India. A tax levied under the constitution will have to be based on some principles laid down in the law itself. It is, therefore, necessary to indicate the principles on the basis of which the betterment contribution is imposed. The basic contribution as also the special benefit contri-

The Law Department also desired that in view of several writ petitions pending in the High Court the Advocate General may be consulted before finalising the proposed amendment bill.

However, a draft amendment bill was prepared in pursuance of the above opinion of the Law Department and was discussed with the Chief Minister on 6-10-65 when the Secretary, Law Department, Joint Secretary, Law Department and the Chief Engineer (Irrigation Projects) were present. The Chief Minister desired that the draft bill be shown to the Advocate General and finalised. In view of the above the subject was further discussed with the Advocate General on 7-10-65 and on 11-10-1965 when the Secretary, Law Department, Joint Secretary, Law Department and the Deputy Secretary, Finance Department were also present. The Advocate General expressed doubts regarding possibilities of sustaining certain provisions made in the draft amendment bill and suggested certain changes in the provisions made for levy of Betterment Contribution to be in conformity with the Constitution of India.

The draft bill in pursuance of the discussions and the above suggestion of the Advocate General has been prepared and further scrutinised in a meeting held on 12-10-1965 at Advocate General's Residence and was finalised incorporating the suggestion made by the Advocate General.

In his letter dated 13-10-1965 addressed to the Joint Secretary, Law Department, the Advocate General, on perusal of the draft Bill placed before him has opined as follows:-

"Section 4 provides that the contribution shall be, where the land is or has been benefitted by:

(i) a major irrigation work or a medium irrigation work, Rs.500 per acre.

(ii) a minor irrigation work, Rs.400 per acre.

Sub-section (2) (b) provided for the rate of special benefit contribution.

Sub-section (4) provided for an enquiry to be made by the Betterment Levy Officer after a notification under sub-section (2) of section 3 and to determine the amount of contribution payable in respect of different lands. Under sub-section (5) provision is made for appeal.

The other provisions relate to the mode of payment.

The provisions of the amended Act and the levy thereunder have been challenged in some writ petitions now pending in our High Court. The ground of challenge mainly is that the provisions are violative of Fundamental Rights under Article 19(1) (f), in so far as the restrictions are wholly unreasonable. The procedure for fixing the betterment levy is also illusory. If, according to the contention, the Notification states under section 3(2) that certain lands are benefitted by such irrigation work, then the enquiry officer under section 4(4) has nothing to inquire except to multiply the acreage of the land by 500 or 400 as the case may be. Further, according to the contention this fixation of 500 or 400 is arbitrary and has no relevance to the increase in

value of the land on account of the construction of the work, for which alone the betterment levy is sought to be levied. It was also urged that in some cases, the increase in the value of the land is very much less than Rs.400/- per acre and on that ground the act is confiscatory in nature. These are the several objections which were urged against the validity of the Travancore-Cochin Land Tax Act 1955, (as amended by Act X of 1957). The Supreme Court upheld some of these objections and held that the Act was confiscatory in nature, that the Levy was discriminatory and offended Article 14 of the Constitution and finally the Supreme Court struck down the act as unconstitutional. In that Act State wanted to levy a tax at a flat rate of ~~Rsx20~~ Rs.2/- per acre. Evidence was given that the petitioner before the Supreme Court who owned more than 25,000 acres of forest lan and who had on that account to pay a tax of Rs.50,000/- per year was deriving income from the said forest lands not more than 3,100 per year. This according to their Lordships, was sufficient to indicate among other reasons that the act was confiscatory. It was also urged and that contention was accepted by the Supreme Court that the levy at a flat rate of Rs.2/- per acre on all lands irrespective of their basic difference would be equally discriminatory. But it is equally well-settled that in taxing statute the State need not proceed to differentiate with mathematical exactitude the different objects of the statute and wide discretion is given to the Legislature to classify and differentiate, provided that such classification or differentiation has a rational basis and that basis is relevant for the purpose of

achieving the object of taxation. Applying these well-known principles and in the light of the judgement of the Supreme Court in (1961) Supreme Court 552 referred to above, I should think that that the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 as amended by Mysore Act VIII of 1964, in so far as it relates to levy of betterment contribution is open to objection.

A provision that should be made must take note of the difference in rise of value in different lands.

The aggrieved party should have an opportunity to raise objections if any as to the levy of betterment contribution. This opportunity to raise objection may be given at one stage or at two stages, at one stage, when a notification is made that the lands are benefitted by such irrigation work; at a later stage when the amount of contribution is determined. Both these stages may be combined and opportunities may be given to raise objections on both grounds.

A draft prepared has been placed before me. In Section 4 in the said draft opportunity is given to the land-holders whose lands are notified to be benefitted by the irrigation work to object to the inclusion of the lands as lands of any specified nature and the extent of irrigability and also in respect of the basis of the claim on which the betterment contribution is levied. Provision is also made for individual

land-holders to be heard before betterment contribution is levied. The levy of contribution also is half the difference between the market price of the land prevailing before the commencement and after the completion of the work. Therefore, the levy cannot be said to be confiscatory.

The objections which might be urged against the constitutionality have been substantially met by these draft suggestions." If litigation is to be avoided or kept at the minimum level, it appears, essential that the rate of betterment contribution should be as reasonably low as possible so that the land-holder should be dissuaded from resorting to the legal steps as such an attempt should appear to him a costly affair when compared to the payment of the rates already specified.

Another important point arising out of the opinion expressed by the Law Department relates to the method of imposition of this contribution. The existing provisions of the Act and also the decision taken by the Cabinet specify the imposition of the betterment contribution on the basis of the period for which the water is made available or the nature of the crops grown. The Law Department strongly feels that the betterment contribution should not have relation to quantum of water made available or the crops grown but on the other hand should have relation to the appreciation in the value of the land as a result of the construction of the projects benefiting the land. There should also be some provision enabling the landholder to seek redressal in a court of law if he feels aggrieved by the decision of the authorities determing the betterment contribution.

If it is agreed that the rate of betterment contribution should have a direct relationship to the rise in the value of land benefited, then the point for consideration would be as to what part of such a rise should be the basis for determination of the rate. The ~~XXXXXXXX~~ Andhra Pradesh Goernment have, in their Act, limited the betterment contribution to 50% of the rise in the value of the land benefited. We may also accept the same principle. The relevant provision of law obtaining in Andhra Pradesh is contained in Annexure I.

If the above suggestions are acceptable then the draft amendment Bill incorporating the various suggestions made and consequential amendment to other sections of the Act is also commended for approval of the Cabinet

The points for consideration of the Cabinet are as under:-

1) Whether there should be only one kind of Betterment Contribution instead of the existing provision of levying basic betterment contribution and the special benefit contribution.

2) Whether the Betterment Contribution may be fixed as follows:-

The amount of betterment contribution payable in respect of any land referred to in Section 3 shall be an amount equal to one-half of the difference between the market value of ~~xxx~~ such land before the date of commencement of the construction, restoration expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration:

Provided that the amount of betterment contribution payable in respect of any land shall not be more than ~~five~~ Three hundred rupees

per acre.

Provided further that no betterment contribution shall be leviable in respect of any land.-

(i) which is unarable (kharab); or

(ii) benefitted by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu, which is not capable of irrigating more than one hundred acres of land:

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the land-holder shall be excluded.

3. Whether the draft amendment bill as proposed be approved.

It may submitted that if these proposals are to be given effect to during the year 1965-66, the amendment will have to be passed by the Legislature during the current session.

Chandaff

14/10

ANNEXURE

THE ANDHRA PRADESH IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND ADVANCE ACT? 1955 - As AMENDED B THE ANDHRA PRADESH IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION) AMENDMENT ACT, 1964

Amount of contribution or advance contribution.

Section 4. The amount of contribution or advance contribution payable by an owner for any land in respect of a work shall be so fixed as not to exceed one half of the increase or the estimated increase in value of the land, on account of the completion of the construction, expansion or alteration of the work. Such increase or estimated increase in value shall be the amount or the estimated amount, by which the value of the land on the date of the completion of such work, exceeds or is likely to exceed the value of the land on the date of commencement of that work."

on the date of commencement of that work,
or is likely to exceed the value of the land
amount, by which the value of the land on the
date of the completion of such work, exceeds
in value shall be the amount or the estimated increase
of the work. Such increase or estimated increase
completion of the construction, operation or alteration
increase in value of the land, on account of the
exceed one half or the amount so estimated
increase of a kind unable to be fixed in
contribution by an owner for land in
section 4. Any kind of contribution or advance

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) BILL,1965.

A Bill to further amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Sixteenth year of the Republic of India as follows:-

1. Short title and commencement:- (1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate)(Amendment) Act, 1965.

2. Amendment of Section 10: In sub-section (1) of section 10 of the principal Act,-

(1) clause (a) shall be omitted;

(2) for item (ii), the following item shall be substituted, namely:-

'(ii) different in respect of water supplied, made available or used from different irrigation works, and when water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown or which may be grown on such land;".

15/10/65

Statement of objects and reasons.

The Mysore Irrigation(Levy of Betterment Contribution and Water Rate)Act,1957,and anneded by Act No.8 of 1964,provides for the levy and collection of Water rates different in respect of Water supplied made available or used for different purposes and different in respect of different crops grown or which may be grown. It has been found that section 10 of the Act does not authorise the Government to charge different rates for supply of water for irrigation from different sources. Since it has been decided that the water rates for supply of water from irrigation works (either major,medium or minor) should be different,hence it is considered necessary that the relevant section of the Act is to be amended to empower the Government to fix up such varying rates depending on the source of supply and nature of the crop grown.

51

~~DRAFT NOTICE.~~

Levy of Betterment Contribution

Sub: ~~Meeting - Amendments to the Mysore Irrigation (Levy of Betterment Contribution and Water rate) Act 1957 - Discussions --~~

***

A Meeting ~~to discuss certain amendments to~~ is proposed to be held

~~the Mysore Irrigation (Levy of Betterment Contribution and Water Rates) Act 1957 will be held~~ on Monday the 25th October, 1965, at 10.30 a.m. in the Chambers of the Minister, Public Works Department, Vidhana Soudha, Bangalore.

to discuss matter relating to Betterment Levy

~~The Secretary to Government, P.W.D. and the Secretary to Government, Law Department, are requested to be present.~~ Secy L.D, and Secy P.W.D. are requested to be present.

A copy of the draft amendment Bill proposed to be placed before the Cabinet is also enclosed herewith.

21/10/65

Deputy Secretary to Government,
P.W.D. (Irrigation)

Copy. TO: P.S to Minister P.W.D.

PA. The Secretary to Govt., P.W.D.

PA The Secretary to Govt., Law Department.

Copy to;

~~The P.S. to Minister for P.W.D.~~

~~The P.A. to Joint Secretary, P.W.D.~~

GSS

GOVERNMENT OF MYSORE

No.PWD 33 LBW 63.

Mysore Government Secretariat,
Vidhana Soudha,
Bangalore, Dated: 21October, 1965.

N O T I C E

SUBJECT: Levy of Betterment contribution.

A meeting is proposed to be held on Monday the 25th October, 1965 at 10.30 A.M. in the Chambers of the Minister for Public Works and Electricity Department, Vidhana Soudha, Bangalore to discuss matter relating to Betterment levy. Secretary, Law Department and Secretary, PWD are requested to be present.

M Channappa

(M.CHANNAPPA),
DEPUTY SECRETARY TO GOVERNMENT,
PUBLIC WORKS DEPARTMENT(I).

Copy to:-

P.S. to Minister, P.W.D.
P.A. to the Secretary to Govt., PWD.
P.A. to the Secretary to Govt. Law Department.

Issued
Dated 22/10/65

SvR.

Note Continuation Sheet

53 -57

Subject..... File No.....

Reference and markings	Notes and Orders	Para Numbers

Note-2

The Mysore Irrigation (Levy of Betterment Contribution and Water Rates) Act, 1957, has come into force from 1-9-60. In accordance with the Section 4 of the Act, the Deputy Commissioner subject to such rules as may be prescribed by Government, shall determine the contribution payable in respect of each of the lands mentioned in Section 3 after taking into consideration the increase in its capital value as estimated in the prescribed manner, provided that the contribution shall in no case exceed the estimated increase in the capital value of the land.

Necessary rules under the Act for the levy of Betterment Contribution based on gross produce ~~was~~ were also issued and brought into force on 23.3.61. These rules were called "The Mysore Irrigation (Levy of Betterment Contribution) Rules, 1961. Five Betterment Levy Officers were also appointed for assessing the betterment levy contribution under the several major and medium irrigation projects in the State. 2

In the course of the actual implementation of the rules, the Betterment Levy officers felt several practical difficulties because the assessment of betterment levy 3

Stitching space

Reference and markings	Notes and Orders	Para Numbers

levy on the basis of gross produce of land was rendered difficult in the absence of reliable statistics in regard to the standard yield per acre of different crops in the several areas of the State. ~~The rules were also defective in certain respects.~~ It was, therefore, decided to modify the rules in the light of the experience gained by the Betterment Levy Officers. The posts of Betterment Levy Officers and their establishments were also retrenched w.e.f. 1.2.1963 pending ~~xxxxxx~~ finalisation of the revised Betterment Levy rules.

The reports of the Betterment Levy officers were considered in a meeting held in the Chambers of the Secretary to Govt. ~~F.D.~~ . on 4.2.63 when the Divisional Commissioners of Mysore and Bangalore, the Secretary to Government, P.W.D. and the Deputy Secretaries to Govt. L.D. and F.D. were present. After ~~great deliberations~~ discussions they came to a conclusion that the method of levying contribution on a flat rate basis is the simplest one and can be very easily implemented. Moreover, the greatest advantage in this method is, it does not require elaborate organisation for its implementation. Thereafter matter was

Attributed upon

Reference and markings	Notes and Orders	Para Numbers

was placed before the Cabinet and necessary amendments were issued and the same was published as Mysore Act No.8 of 1964. According to the amended Act, the amount of contribution at the rates payable in respect of lands specified under Section 3 have been specified which are reproduced below.

"

(2) (a) The rate of basic contribution shall be where the land is, or has been benefitted by :-

i) a major irrigation work or medium irrigation work. Rs.500/- per acre.

ii) a minor irrigation work . Rs.400/- per acre.

(b) the rate special benefit contribution shall be where water is made available or is available from the work for the land.

i) for not less than eight months in a year, Rs.25/- per acre p.a.

ii) for not less than three months, less than eight months in a year Rs.12½ per acre p.a.

The above contribution is payable by the land holder for a period of 20 years in respect of the benefitted land. Necessary rules based on the provisions of the amended Act have been issued and also brought into force. ~~These rules have~~ as above has again been challenged in the Court of Law. A good number of writ petitions

Binding space

Note Continuation Sheet

Subject..... File No.....

WD 014899—GPB—8,00,000—11-8-

Reference and markings	Notes and Orders	Para Numbers

petitions have been filed before the High Court challenging the validity of the provisions of the Act and Rules framed thereunder. Interim Stay Orders have also been received from the High Court restraining Government from recovering Betterment Contribution under the impugned provisions of the Act. It is now held that the fixed contribution is not sustainable in law.

It is now considered desirable to go again into the matter minutely and to devise ways and means to overcome the difficulty experienced in the past and also the legal ~~defects~~ implications that have come in the way of levying of fixed sum as betterment contribution.

Attaching annexure

Appendix F. G.—1]

SUBJECT .... Levy of water Rates and Betterment Contribution ... Draft amendment to the Mysore Irrigation (Levy of Betterment Contribution and water Rate) Act 57.

Diary No. of letter replied to.....

Section

File No.

Serial No.

Mysore Government Secretariat.

( )

the 196.

N.

To

Date of issue.....

1) The Divisional Commr Bangalore Dn
2) ——— Mysore Dn
3) ——— Gulbarga Dn
4) ——— Belgaum Dn
5) The Chief Engineer I.P. Bangalore
6) The Chief Engineer (P) Bangalore

Signed by.....

Sir,

I am directed to state that with a view to meeting certain Constitutional requirements it is considered necessary to amend the provisions relating to the Levy of Betterment Contribution. Accordingly a draft amendment to the Mysore Irrigation (Levy of

List of enclosures.....

Copied by.....

Examined by.....

Contd.

WD 01116—GPB—4,00,000—7-3-63

Betterment Contributions and Water Rate) Act 65
~~proposal to be introduced~~ has been prepared
& enclosed herewith - In your enquiry of even
& reference I am to request you kindly
to furnish your remarks thereon for
consideration by Govt. your reply
should reach this by 25.11.65 -
positively :
A note on the subject is also enclosed
herewith for your ready reference

pages 51 to 52
of C.2

14/11/65
D/S (A)

The Tyrone Irrigation (Levy of betterment contribution and betterment) Act, 1957, was made into force from 1.4.57. In accordance with the section 4 of the Act. Tyrone Irrigation subject to such rules as may be prescribed by Government, shall determine the contribution payable in respect of each of the lands mentioned in Section 3 after taking into consideration the increase in its capital value as estimated in the prescribed manner; provided that the contribution shall in no case exceed the estimated increase in the capital value of the land.

[illegible] rules under the Act for the levy of betterment contribution have been framed and [illegible] Tyrone Irrigation Levy of Betterment Contribution Rules, 1961. [illegible] betterment contribution rules per acre adopted for assessing the betterment levy contribution under the revised [illegible] Irrigation projects in the State.

In the proposed [illegible] betterment contribution rules, the [illegible] levy betterment contribution [illegible] the [illegible] [illegible] of betterment

levy on the basis of gross produce of land was rendered difficult in the absence of reliable statistics in regard to the ordinary yields per acre of different crops in the several areas of the State. It was, therefore, decided to modify the rules in the light of the experience gained by the Settlement Levy Officers. The posts of Settlement Levy Officers and their establishments were also retrenched w.e.f. 1.2.1963 pending finalisation of the revised Settlement Levy Rules.

The reports of the Settlement Levy Officers were considered in a meeting held in the Chamber of the Secretary to Government, Finance Department on 4.2.63 when the Divisional Commissioners of Mysore and Bangalore, the Secretary to Government, Finance and the Deputy Secretaries to Govt. L.R. and Fin. were present. After discussions they came to a conclusion that the method of levying contribution on a flat rate basis is the simplest one and is very easily intelligible. Moreover, the greatest advantage in this method is, it does not require elaborate organisation for its implementation. The transfer petitions

c.c.c.

on the provisions of the Act and Rules framed thereunder. Labour Ministry before has also been moved from the High Court restraining Government from recovering Betterment Contribution under the impugned provisions of the Act. It is once held that the fixed contribution is not sustainable in law.

It is now considered desirable to go again into the matter minutely and to devise ways and means to overcome the difficulty encountered in the past and also the legal implications that have come in the way of levying of fixed sum as betterment contribution.

COPY

for Secretary, P.W.D.

Inland Revenue Commission
"Vidkun Quisling"
Basseterre, this 12th November 'C.

The Secretary to the Department of Inland Revenue,
Public Buildings,

To

The Deputy and Commissioners of the
The Chief Engineer, Bassaterre
The Chief Engineer, Bassaterre

Sir,

Re Liability of Public Bodies and Departments (Imposition of Rates) Act 1957.

I am directed to write this letter to you in connection with the above Act, in so far as the Inland Revenue Commission is concerned, in the hope that it will answer many of your queries.

Accordingly I am to say that the Inland Revenue Commission has been entrusted with the collection and distribution of the rates imposed by the above Act.

I am to request you kindly to furnish your estimate for the ensuing financial year. Your report should contain all particulars as to income.

Please note that the closing date for receipt of your estimate is the 30th day of November.

Yours faithfully,

(Illegible)
for Secretary to Govt.,
Public Buildings Department.

Appendix F. G.—1]

SUBJECT..... Levy of Water Rate and Betterment Contribution ..... draft amendment to the Tyne Irrigation (Levy of Betterment Contribution and Water Rate) Rules 1957 → ..... Inclusion of the subject in the next meeting of the State-level working group —

Diary No. of letter replied to..... .....

Section

File No.

Serial No.

Mysore Government Secretariat.

( )

the 196.

N.

To

Date of issue.....

The Secretary-
State-level working group
on Irrigation and
Development
D.P.C. Dept.
Vidhana Soudha Blore 1

Signed by.....

Sir;

I am directed to state that it is considered necessary to discuss the marginally noted subject in the next meeting of the State-level working group.

I am therefore to request you kindly to include this subject in the agenda of the next meeting. A copy of the note on the subject is also enclosed herewith for reference

Levy Betterment Contribution — Draft amendment to the Tyne Irrigation (Levy of Betterment Contribution and Water Rate) Rules 1957

List of enclosures.....

Copied by.....

Examined by.....

WD 012116—GPB—4,00,000—7-3-63

12/4/63

D.S.(I)

D.S. Irrigation Dept.

GOVERNMENT OF MYSORE

No. PWD.33 LDW-64 (W.E.

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,

FROM

Dated, Bangalore, 12th Novr. 1965.

The *Secretary to the Government of Mysore,*
Public Works Department.

To

The Secretary,
State Level Working Group
on Irrigation & Development,
D.P.C. Department,
Vidhana Soudha,
BANGALORE-1.

Sir,

SUB:- Levy of Water rates and Betterment contribution - draft amendment to the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957- Inclusion of the subject in the next meeting of the State Level Working Group.

I am directed to state that it is considered necessary to discuss the *marginally noted subject in the next meeting of the State Level Working Group.

*1) Levy Betterment Contribution- Draft ~~amdm~~ amendment to the Mysore Irrigation (Levy of Betterment contribution and Water Rate Act, 1957.

I am therefore to request you kindly to include this subject in the agenda of the next meeting. A note on the subject is also enclosed herewith for reference.

Yours faithfully,

12/11/65

(M.Channappa)
Deputy Secretary to Govt.
P.W.D.(Irrigation).

ISSUED
Dated...12/11/65

PWD 33 LBW 64.

SUB:-Meeting to be held on 25.11.65 to discuss ~~the~~ matter relating to amendments to Betterment Levy Act and Water Rates Rules.

A meeting is proposed to be held in the chambers of the Chief Secretary to the Govt. of Mysore, Vidhana Soudha, on Thursday the 25.11.65 at 3-30 P.M. to discuss ~~the~~ matters relating to the amendments to Betterment levy Act and Water Rates Rules.

The following officers are requested to attend the meeting.

1) The Divisional Commissioner, Bangalore/Mysore/Belgaum/ Gulbarga.
3) The Secretary to Govt. P.W.D.
4) The Secretary to Govt. Revenue Dept.
2) The Development Commissioner
5) The Secretary to Govt. Fin. Dept.
6) The Jt.Secretary to Govt. Law Dept. Sri M.A.Swaminathan.
7) The C.E.(IP), Bangalore.
8) The C.E.(G), Bangalore.

DY.SECRETARY TO GOVT.
P.W.D.(I)

To

1. The Divisional Commissioner, Bangalore, Mysore, Belgaum, Gulbarga. His attention is also invited to Govt. letter of even No. dated 12.11.65, and to the message communicated through phonogram on 16.11.65.
2. The Secretary to Govt.PWD.
3. The Secretary to Govt.R.D.
4. The FAO Development Commissioner

(PTO)

The draft rules have been published in the Gazette dated 4/4/66 vide page 2021 - 2026 - a copy of the draft rules is also enclosed for your information.

5) The Secretary to Govt. Fin.Dept.

6) The Jt.Secy. to Govt. Law Dept.

7) The C.E.(IP),Bangalore, in continuation of this department letter of even No. dt. 12.11.65.

8) The C.E.(G),Bangalore, in continuation of Govt. letter of even No. dt. 12.11.65

Copy to:-

P.A. to Chief Secretary to Govt. of Mysore.

P.A. to Secretary to Govt. P.W.D.

P.A. to Dy.Secretary to Govt. P.W.L.(I)

N O T I C E.

PWD.
No.33 LBW 64

Mysore Government Secretariat,
Public Works Department,
Vidhana Soudha,
Bangalore, dated, 17-11-1965.

Sub:-Meeting to be held on 25-11-1965 to discuss the matter relating to amendments to Betterment Levy Act and Water Rates Rules.

A meeting is proposed to be held in the Chambers of the Chief Secretary to the Government of Mysore, Vidhana Soudha, on Thursday the 25-11-1965 at 3-30 P.M. to discuss the matters relating to the amendments to Betterment levy Act and Water Rates Rules.

The following officers are requested to attend the meeting.

1. The Divisional Commissioner, Bangalore.
2. The Divisional Commissioner, Mysore,
3. The Divisional Commissioner, Belgaum
4. The Divisional Commissioner, Gulbarga.
5. The Development Commissioner.
6. The Secretary to Govt. Public Works Deptt.
7. The Secretary to Government, Revenue Deptt.
8. The Secretary to Government, Finance Department.
9. Shri M.A.Srikrishna, Jt. Secretary, to Govt. Law Deptt.
10. The Chief Engineer, Irrigation Projects, Bangalore.
11. The Chief Engineer, (General), Bangalore.

M. Channappa 17/11/65

(M.Channappa),
Deputy Secretary to Government,
Public Works Department(Irrigation).

To

The Divisional Commissioner, Bangalore, Mysore, Belgaum, Gulbarga
His attention is also invited to Govt. letter of even No.dated 12-11-1965 and to the message communicated through Phonogram on 16-11-1965. The water rate rules have been published in the Gazette dated 11-11-1965 vide pages 2021, 2026- a copy of the rules is also enclosed herewith for ready reference.

2. The Secretary to Govt. PWD.

3. The Secretary to Government, Revenue Department.

4. The P.A. to the Development Commissioner.

5. The Secretay to Govt. Finance Department.

6. Sri.M.A.Srikrishna, Jt.Secy. to Govt. Law Department.

7. The Chief Engineer, Irrigation Projects, Bangalore in continuation of this Deptt. letter of even No. dated 12-11-65.

8. The Chief Engineer (General), Bangalore in continuation of Govt. letter of even No. dated 12-11-1965 .

ISSUED Dated 17/11/65

Copy to:-

P.A. to Chief Secretary to Govt. of Mysore

P.A. to Secretary to Govt. P.W.D.
P.A. to Dy.Secy. to Govt.PWD (Irrigation).

N O T E

The Mysore Irrigation (Levy of Betterment contribution and Water Rate) Act, 1957, has come into force from 1.9.1960. In accordance with the Section 4 of the Act, the Deputy Commissioner subject to such rules as may be prescribed by Government. shall determine the contribution payable in respect of each of the lands mentioned in Section 3 after taking into consideration the increase in its capital value as estimated in the prescribed manner; provided that the contribution shall in no case exceed the estimated increase in the capital value of the land.

Necessary rules under the Act for the levy of Betterment Contribution based on gross produce were also issued and brought into force on 23.3.61. These rules were called "The Mysore Irrigation (Levy of Betterment Contribution) Rules, 1961. Five Betterment Levy Officers were also appointed for assessing the betterment levy contribution under the several major and medium irrigation projects in the State.

In the course of the actual implementation of the rules, the Betterment Levy Officers felt several practical difficulties because the assessment of betterment levy on the basis of gross produce of land was rendered difficult in the absence of reliable statistics in regard to the standard yield per acre of different crops in the several areas of the state. It was, therefore, decided to modify the rules in the light of the experience gained by the Betterment Levy Officers. The posts of Betterment Levy Officers and their establishments were also retrenched with effect from 1.2.1963 pending finalisation of the revised Betterment Levy Rules.

The Reports of the Betterment Levy Officers were considered in a meeting held in the Chambers of the Secretary to Government, Finance Department on 4.2.63 when the Divisional Commissioners of Mysore and Bangalore, the Secretary to Government, P.W.D. and the Deputy Secretaries to Government L.D. and F.D. were present. After discussions they came to a conclusion that " the method of levying contribution on a flat rate basis is the simplest one and can be very easily implemented. Moreover, the greatest advantage in this method is, it does not require elaborate organisation for its implementation." Thereafter matter was placed before the Cabinet and necessary amendments were issued and the same was published as Mysore Act No.8 of 1964. According to the amended Act, the amount of contribution at the rates payable in respect of lands specified under Section 3 have been specified which are reproduced below

"(2) (a) The rate of basic contribution shall be where the land is, or has been benefitted by:

i) a major irrigation work or medium irrigation work. Rs.500/- per acre.

ii) a minor irrigation work. Rs.400/- per acre.

(b) the rate special benefit contribution shall be where water is made available or is available from the work for the land.

i) for not less than eight months in a year, Rs 25/- per acre p.a.

ii) for not less than three months, less than eight months in a year Rs.12½ per acre p.a.

The above contribution i[illegible] land holder for a period of 20 years in respect of the benefitted land. Necessary rules based on the provisions of the amended Act have been issued and also brought into force. The betterment levy as above has again been challenged in the Court of Law. A good number of writ petitions have been filed before the High Court challenging the validity of the provisions of the Act and Rules framed thereunder. Interim Stay Orders have also been received from the High Court restraining Government from recovering Betterment contribution under the impugned provisions of the Act. It is now held that the fixed contribution is not sustainable in law.

It is now considered desirable to go again into the matter minutely and to devise ways and means to overcome the difficulty experienced in the past and also the legal implications that have come in the way of levying of fixed sum as betterment contribution.

'COPY'

for Secretary to Government.
Public Works Department.

SvR.

GOVERNMENT OF MYSORE

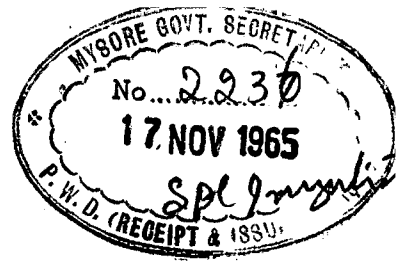
69

Office of the Chief Engineer, PWD,
Irrigation Projects in Mysore,
'Park House', Bangalore-1,
Dated 16 Nov. 1965.

No. 510/P

To

The Secretary to Government,
Public Works Department,
'Vidhana Soudha', BANGALORE.



Sir,

Sub:- Levy of Water Rates and Betternment Contribution - draft amendment to the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act 1957.

Ref:- Your letter No.PWD 33 LBW 63 dt. 12-11-1965.

===

Note 12/11/65

I have no remarks to offer.

Yours faithfully,

(I.M. MAGDUM)
Chief Engineer, PWD,
Irrigation Projects.

ON P & T SERVICE

PHONOGRAM accepted subject to I. T. R. 1951 amended from time to time.

70

Local Address

Deputy Secy PWD
irrigation
Vidhanasoudha
Bangalore 1

TF No 23101-259

TKT No H.584

Charges 7.60

Initials Rs

Sent at 1 8 NOV 1965

To

By

No. 2245

MYSORE GOVT. SECRET P.W.D. (RECEIPT)

28

Class X Time 1550 AP No. 604 Bangalore 16. Date 18. Wds. 36

To
Name Divisional Commissioner
Telephone No. TF
Address Gulbarga
Telegraph Office

19/11/65

59 11 21 GULBARGA

R/O/KG

Amendment to determent levy act and water rate rules are proposed to be discussed in Chief Secretary Chamber at 3-30 pm. on 25-11-65 Letter follows =

= M. Channappa Deputy Secy PWD irrigation =

B. P. Press, PTG/Forms/65/6678-6-7-65-1500 pads

ON P & T SERVICE

PHONOGRAM accepted subject to I. T. R. 1951 amended from time to time.

71

Local Address Deputy Secy PWD Irrigation
Vidhansouda
Bangalore 1.

TF. No. 23101-259.

TKT No H.584.

Charges 1.60

Initials b

To

By

Class X Time 1850 AP No. 504 Bangalore 16 Date 8th Wds. 38

To
Name Divisional Commissioner
Telephone No. TF
Address Mysore.
Telegraph Office

amendment to deterrent levy act and water rate rules are proposed to be discussed in Chief Secretary Chamber at 3.30 PM on 25-11-65 letter follows:

M. Channappa Deply Secy PWD Irrigation

B. P. Press, PTG/Forms/65/66 dt. 6-7-65 1500 pads.

ON P & T SERVICE **PHONOGRAM** accepted subject to I. T. R. 1951 amended from time to time.

Local Address TF No. 23101-259

Deputy Secy PWD
Irrigation
Vidhana Soudha
Bangalore 1

TKT No N.584. Charges 7.60 Initials [illegible]

To

By

38

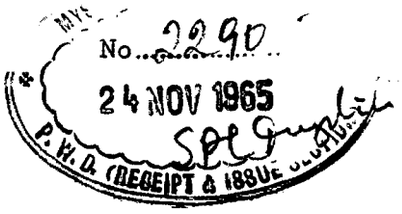
Class X Time 1850 AP No. 505 Bangalore 16 Date 5/12 Wds. 38

To
Name Divisional Commissioner
Telephone No. TF
Address Belgaum
Telegraph Office

Amendment to betterment levy act and water rate rules are proposed to be discussed in Chief Secretary chamber at 3.30 PM on 25-11-65 letter follows = M. Channabasappa Dpty Secy PWD Irrigation =

B. P. Press, PTG/Forms/65/66 dt. 6-7-65 1500 pads

Subject:- Levy of Water Rate and Betterment Contribution - Draft Amendment to the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.
Comments regarding the ..



No.GB/IRR.SR.231.
Belgaum, 22-11-1965.

To

The Secretary to Government,
Public Works Department,
Vidhana Soudha
Bangalore.

Sir,

Reference: Government letter No.PWD 33 LBW 63 dated 12-11-1965, on the above subject.

2. Since it is now held that fixed contribution is not sustainable in law and the fact that it is not possible for Government to levy different water rates for supply of water from different sources i.e. major and medium Projects and Minor irrigation works and that these different classifications cannot be justified under the law, there seems to be no alternative but to fix the amount of betterment contribution payable in respect of any land benefitted by the construction, restoration, expansion or alteration of any irrigation work based on the market value of the land. The amendments to the Act now proposed to be made for the purpose of determining the betterment contribution are suitable and may therefore be accepted.

3. I however consider that one more amendment to the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, appears necessary. In this connection, I may point out that clause (ii) of the second proviso to sub-section (1) of Section 4 as per the draft amendment Act, runs as follows -

"No betterment contribution shall be leviable in respect of any land, benefitted by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, etc., which is not capable of irrigating more than one hundred acres of land."

In view of this amendment, irrigation works not capable of irrigating more than 100 acres will get exempted from the levy of betterment contribution. Clause (a) of sub-section (1) of Section 10 of the said Act of 1957 reads as follows in connection with the levy of water rate.

pto...

"Whenever -

water is made available by the Government for the use of any benefitted land in respect of which betterment contribution is levied - x x x,

the Government shall be entitled to levy a separate charge for such water hereinafter referred to as water rate."

4. It can be construed from this clause (a) of sub-section (1) of Section 10, that water rate can be levied on the lands under such of the works in respect of which only betterment contribution is leviable. But since irrigation works not capable of irrigating more than 100 acres of land are exempted from the levy of betterment contribution under sub-section (1)of Section 4 of the draft amendment Act, then no water rate can be levied, on lands below the works irrigating not more than 100 acres in view of this amendment.

It does not appear to be the intention of Government to exempt from water rate the irrigation works not capable of irrigating 100 acres. In view of the fact that Government have framed separate draft water rate rules for levy of water rate on lands under command of irrigation works irrigating less than 100 acres, the anomoly which is caused by the amended clause (ii) of the second proviso to sub-section (1) of Section 4 of the draft amendment Act, can be removed by deleting clause (a) of sub-section (1) of Section 10 of the Mysore Irrigation Act, 1957.

Yours faithfully,

(A.M.Patil)
for Divisional Commissioner, Belgaum.

o.c. signed by
Divl. Comm.

nss.

PROCEEDINGS OF THE MEETING HELD IN THE CHAMBERS OF THE CHIEF SECRETARY ON 25th NOVEMBER 1965. 711

PRESENT:

(1) Chief Secretary
(2) Development Commissioner
(3) Divisional Commissioner, Bangalore Division, Bangalore.
(4) Divisional Commissioners, Mysore Division, Mysore.
(5) Divisional Commissioner, Belgaum Division, Belgaum.
(6) Divisional Commissioner, Gulbarga Division, Gulbarga.
(7) Secretary to Government, Finance Department.
(8) Secretary to Government, Revenue Department.
(9) Secretary to Government, P.W. & E.Department.
(10) Joint Secretary to Government, Law Department.
(11) Deputy Secretary to Govt., P.W. & E.Department.
(12) Deputy Chief Engineer (Irrigation Projects).
(13) Deputy Chief Engineer (Minor Irrigation.

While recaptulating the facts relating to the existing enactment regarding the levy of Betterment contribution, the Secretary, P.W. & E.Department mentioned that in view of the several representations received against the present rates of Betterment Contribution, the Government decided to reduce the rate of Betterment contribution as follows:-

Basic contribution..	Rs. 400/- per acre.
Special benefit contribution for wet (Paddy)	Rs. 200/- per acre.
Special Benefit contribution for Sugar Cane	Rs. 400/- per acre.

With a view to implementing the decision of the Government, a draft amendment to the Mysore Irrigation (Betterment Levy and Water rate) Act was prepared and referred to the Law Department for their advice. While scrutinising the draft so prepared, the Law Department raised ~~to~~ Two fundamental objections to the provisions of the Act as it stood -

(1) There was no basis for levying two types of Betterment contribution.(they suggested that there should be only one rate of Betterment Contribution);

(2) The Betterment contribution should have a direct relation to the rise of the cost of the lands benefited by any particular irrigation project.

The Advocate-General was also consulted and a series of discussions were held. As a result of these deliberations,

a draft amendment was prepared which was scrutinised by the Law Department in consultation with the Advocate General, a copy of which had already been sent to the Divisional Commissioners. The question now to be considered is whether the existing provisions of the said Act should continue as they are with slight modifications in regard to the rate of basic contribution and the Special benefit contribution, or should it go undergo changes on the lines suggested by L.D.

Shri G.V.K.Rao mentioned that the draft now proposed would amount to reverting to the original position. It would involve an elaborate arrangement for determination of Betterment contribution in respect of each of the lands benefitted by the irrigation projects and lead to various complications. In view of the Land Reforms Act, it would be difficult to find out the correct market rate of the lands benefitted as the ~~disposal~~ sale of the lands in the present circumstances would be subjected to the restrictions laid down in the Land Reforms Act, and thus the correct assessment of rise in the value of the lands benefitted ~~could~~ would not be ~~achieved~~ possible. The Chief Secretary said that it was equitable to give an opportunity to the cultivators to know the basis on which his land was going to be subjected to the Betterment contribution. After further discussion and in the light of the opinion expressed by the Law Department and the Advocate-General it was generally agreed as follows:-

(1) Draft ~~of~~ amendment to the Section 4:- The draft as prepared may remain;

(2) Section 4(iii):- The publication be made in the Chavadi and the office of the Tahsildar. It is not necessary to publish the same in the Officia gazette.

(3) Section 4 (vi & vii):- The appeal may lie with the Deputy Commissioner or the Special Deputy Commissioner instead of with the Civil Judge.

provision may also be made for Revisional petition to the Revenue Appellate Tribunal.

Section 5(a):- The words "by the completion of the construction" may be substituted by the words " by supply of water due to".

In the light of the above observations, the draft now proposed may be suitably re-drafted.

The Divisional Commissioners generally expressed against the Public Works Department officers being entrusted with the preparation of the Demand Statements of water rate now proposed in the draft amendment. The Divisional Commissioner, Gulbarga mentioned that the Revenue Department which has the necessary administrative machinery under its control should be the appropriate agency to prepare such statements and collection of the water rates. It was agreed that the draft now proposed may be making D.O. reasonable suitably redrafted. The Chief Secretary said that the Divisional Commissioners should forward their suggestions with reference to the draft rules already published, calling for objections as it would help to review the draft amendment before their finalisation.

Chandappa
26/11/85

Annexure I.

THE ANDHRA PRADESH IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND ADVANCE ACT, 1955 - AS AMENDED BY THE ANDHRA PRADESH IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION) AMENDMENT ACT, 1964.

Amount of contribution or advance contribution.

Section 4. The amount of contribution or advance contribution payable by an owner for any land in respect of a work shall be so fixed as not to exceed one half of the increase or the estimated increase in value of the land, on account of the completion of the construction, expansion or alteration of the work. Such increase or estimated increase in value shall be the amount or the estimated amount, by which the value of the land on the date of the completion of such work, exceeds or is likely to exceed the value of the land on the date of commencement of that work".

(Leg.) C.286/65.

THE MYSORE IRRIGATION LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE)(AMENDMENT) BILL, 1965.

A Bill to further amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Sixteenth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate)(Amendment) Act, 1965.

(2) Sections 2, 3, 4, 5 and 6 shall be deemed to have come into force on the first day of September 1960, and section 7 shall be deemed to have come into force on the Twenty-seventh day of February 1964.

2. Amendment of section 2.- In section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1958) (hereinafter referred to as the principal Act), -

(1) in clause (ba), for the words "basic contribution and special benefit contribution", the words "betterment contribution" shall be substituted;

(2) clauses (fa), (fb) and (fc) shall be omitted.

3. Amendment of section 3.- In section 3 of the principal Act,-

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(1) in sub-section (1), for the words and figure "at the rates specified in section 4 in accordance with the provisions of this Act on land, which in the opinion of the prescribed officer, is benefited", the words "in accordance with the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted;

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

4. Substitution of new section for section 4.- For section 4 of the principal Act, the following section shall be substituted, namely:-

"4. Amount of betterment contribution.- (1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration;

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre;

Provided further that no betterment contribution shall be leviable in respect of any land, -

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige

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or madugu, which is not capable of irrigating more than one hundred acres of land:

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) of section 3 in respect of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the differe lands.

(3) The statement so prepared along with a public notice shall be published ~~(in the official Gazette)~~ and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state --

(a) their objections, -

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability; and

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(b) in respect of payment of betterment contributions, the basis on which they claim that the amount of betterment contribution has to be computed.

Such statement shall be made in writing and signed by the party of his agent.'

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenue district ~~on~~ which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being heard to every person who has made a statement under sub-section (3), make an order specifying --

(a) the increase in value of the lands ~~(by the completion of the construction)~~ restoration, expansion or alteration of the irrigation work;

(b) the amount of betterment contribution payable in respect of the said lands;

and

(c) the date from which such betterment contribution shall be payable.

(6) ~~The Government or~~ Any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the

~~the Deputy Commr or the Special Deputy Commr~~ deputy commissioner of the district ~~Court of the Civil Judge~~ having jurisdiction over the ~~area~~ in which the land is situated and the ~~Court of the Civil Judge~~ deputy commissioner may pass such orders on the appeal as ~~it~~ he may deem fit.

[(7) Any order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders af-oresaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to be questioned in any Court of Law."]

5. Amendment of section 5.- In section 5 of the principal Act,-

(1) in sub-section (1) for the words "basic contribution", the word "Contribution" shall be substituted, and at the end of the sub-section the following proviso shall be added, namely; -

"Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final.";

(2) in sub-section (2), for the words "basic contribution", the word "contribution" shall be substituted;

(3) sub-section (3) shall be omitted.

6. Amendment of section 6.-

In section 6 of the principal Act, for the words "basic contribution", wherever they occur, the word "contribution" shall be substituted.

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THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) BILL, 1966.

A Bill to further amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Sixteenth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act. 1966.

(2) It shall be deemed to have come into force on the first day of September 1960.

2. Amendment of section 2.- In section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1958) (hereinafter referred to as the principal Act), -

(1) in clause (ba), for the words "basic contribution and special benefit contribution", the words "betterment contribution" shall be substituted;

(2) clauses (fa), (fb) and (fc) shall be omitted.

3. Amendment of section 3.- In section 3 of the principal Act, -

(1) in sub-section (1), for the words and figure "at the rates specified in section 4 in accordance with the provisions of this Act on land, which in the opinion of the prescribed officer, is benefited", the words "in accordance with the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted;

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

4. Substitution of new section for section 4.- For section 4 of the principal Act, the following section shall be substituted, namely:-

"4. Amount of betterment contribution.- (1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration;

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre;

Provided further that no betterment contribution shall be leviable in respect of any land, -

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige

or madugu, which is not capable of irrigating more than one hundred acres of land:

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) of section 3 in respect of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The statement so prepared along with a public notice shall be published in the village chavadi and the Taluk Office ~~in the official Gazette~~ and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a timeand place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state --

(a) their objections, -

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability; and

(b) in respect of payment of betterment contributions, the vasis on which they claim that the amount of betterment contribution has to be computed.

Such statement shall be made in writing and signed by the party of his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenue district on which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being heard to every person who has made a statement under sub-section (3), make an order specifying --

(a) the increase in value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work;

(b) the amount of betterment contribution payable in respect of the said lands; and

(c) the date from which such betterment contribution shall be payable.

(6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the

Court of the Civil Judge having jurisdiction over the area in which the land is situated and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) Any order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders af-oresaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to be questioned in any Court of Law."

5. Amendment of section 5.- In section 5 of the principal Act,-

(1) in sub-section (1) for the words "basic contribution", the word "Contribution" shall be substituted, and at the end of the sub-section the following proviso shall be added, namely; -

"Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final.";

(2) in sub-section (2), for the words "basic contribution", the word "contribution" shall be substituted;

(3) sub-section (3) shall be omitted.

6. Amendment of section 6.-

In section 6 of the principal Act, for the words "basic contribution", wherever they occur, the word "contribution" shall be substituted.

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STATEMENT OF OBJECTS AND REASONS

The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 and as amended by Act No.8 of 1964, provides for the levy and collection of betterment contribution at certain specified rates in respect of lands benefited by different irrigation works.

It is considered that the levy should be related to increase in the value of the lands benefited, and hence it is proposed to amend sections 3 and 4.

23/12/65

Mysore Government Secretariat.
"Vidhana Soudha"

Bangalore, dated February 1933.

Read

The Secretary,
Scrutinising Committee.

To

The Secretary to Government, Law Department.
The Secretary to Government, P.W. & E. Department.
The Draftsman & Ex-Officio Joint Secretary, Law Dept.
The Deputy Draftsman & Ex-Officio Deputy Secretary,
Law Department.

Subject: The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1933.

Sir,

I am directed to forward herewith a copy of the draft Bill referred to above and to state that the Bill will be considered at a Meeting of the Scrutinising Committee to be held at 11-00 A.M., on Monday, the 21st February 1933, in the Chambers of the Hon'ble Chief Minister. I am to request you kindly to attend the meeting.

Yours faithfully,

Sd/-
(K.N. Gundappa.)
Secretary,
Scrutinising Committee.

Copy of the above with a copy of the draft Bill forwarded to:-

1) the Private Secretary to the Hon'ble Chief Minister;

2) the Private Secretary to the Hon'ble Minister for Public Works & Electricity.

(K.N. Gundappa.)
Secretary.
Scrutinising Committee

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SECRET 1965 PWD 33 LBW 63

CABINET NOT.

Subject: C.266/65
Levy of Water Rates and Betterment contribution.

The question of levy of water rates and betterment contribution was considered in the Cabinet Meeting held on 20.8.1965 and the following decisions were taken:-

(1) The Water Rates for lands irrigated by irrigation works with an achkat of above 100 acres, shall be as follows:-

I.	(a) For Single wet (Paddy) Crop	.. Rs. 18/-	per acre
	(b) For double wet (Paddy) Crop	.. Rs. 25/-	-do-
II.	For Sugarcane Crops:		
	(a) of 11 months duration	.. Rs. 45/-	-do-
	(b) of 16 to 10 months duration	.. Rs. 60/-	-do-
III.	For Cotton and Groundnut and other Cash Crops:	.. Rs. 15/-	-do-
IV.	For Millets and Pulses.	.. Rs. 7.50	-do-
V.	For all Garden Crops	.. Rs. 20/-	-do-
VI.	For Manurial Crops.	.. Rs. 4/-	-do-

(2) The Water Rates for lands irrigated by Irrigation works with an achkat of 100 acres and below shall be as follows:-

I.	(a) For Single Wet (Paddy) Crop	.. Rs. 12.50	-do-
	(b) For Double Wet (Paddy) Crop.	.. Rs. 18.75	-do-
II.	For Sugarcane Crop.	.. Rs. 30/-	-do-
III.	For Cotton, Groundnuts and other Cash Crops.	.. Rs. 7.50	-do-
IV.	For Millets and Pulses.	. Rs. 5/-	-do-
V.	For Garden Crops	. Rs.12.50	-do-
VI.	For Manurial Crops.	. Rs. 3/-	

(3) The basic Betterment Contribution leviable upon the lands irrigated by irrigation works shall be fixed at Rs. 400/- per acre.

(4) The Special Benefit Betterment Contribution leviable upon the above lands shall be fixed as under:-

(a) Rs. 200/- per acre for wet(Paddy) cultivation;
(b) Rs. 400/- per acre for sugarcane cultivation;
(so that the Betterment contribution will be Rs. 800/-, Rs. 600/- and Rs. 400/- per acre for irrigated land under sugarcane, paddy and other crops respectively.)

(5) The following amendment to Sec. 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act was suggested which has also been approved by the Cabinet as under:

For item (ii) of sub-section (1) of Section 10 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, the following item shall be

substituted, namely:-

"(ii) difference in respect of water supplied, made available or used from different irrigation works and when water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown on which may be grown on such land".

Regarding item No. 5 of the above Cabinet decision, separate action has been taken on an amendment bill to amend Section 10 of Betterment Levy and Water Rate Act, and the same is coming up before Legislature in the current Session.

(6) With a view to implementing the decision of the Cabinet in regard to the Betterment levy, a draft amendment Bill was prepared and referred to the Law Department for scrutiny. The subject was subsequently discussed with the Joint Secretary, Law Department. The Law Department is of the view that the principles on the basis of which the Betterment contribution (Basic betterment contribution and the Special benefit betterment contribution) is to be imposed, will have to be indicated in the Act itself. In regard to the Special benefit contribution, the Law Department is of the view that if a contribution is relatable to the crop grown on any land it would be difficult to fix the rate in view of the varying nature of the crops that would be grown in different years, Consequently, it would not be possible to determine the rate in a definite manner. During the discussion, the Joint Secretary, further mentioned that the betterment contribution had to have relation to the principle of appreciation in the valuation of the land as a consequence of the irrigation works constructed by Government which would benefit the land. Therefore when once the betterment contribution is determined there is no case for levying special benefit contribution on the basis of crops grown. No principles, as such, could be laid down for imposition of such a levy. Any attempt to do so would be ultra-vires. He is of the firm view that there should not be any provision for levying Special betterment contribution. We should, according to him, content ourselves to levying only betterment contribution. The relevant extract of the opinion expressed by the Law Department on the two points mentioned above are given below:

> "It is proposed to make provision for the levy of special benefit contribution on benefitted lands at the rate of Rs. 200 per acre for wet(paddy) cultivation and at Rs. 400 per acre for sugarcane cultivation. As stated by the Public Works Department the intention is to levy this contribution in instalments for a period of twenty years prospectively. This assumes that the same crop would be grown for a period of twenty years on any piece of land. But if in one year, paddy is grown on the same land, the levy being a lumpsum amount to be paid in instalments, the amount cannot possibly be varied merely because the crop grown is different. There may also be cases where no crop is grown in any year. There may also be cases in which although paddy or sugarcane can be grown by the water made available no crop is grown on the land. In such cases there could be no levy of special benefit contribution at all.

Section 3 of the Act provides for the levy of tax called betterment contribution and consequently a tax payable should be determinable with some precision. If the contribution is relatable to the crop grown on any land, it would be difficult to fix the rate in circumstances indicated above. Consequently it would not be possible to determine the rate in a definite manner."

"The betterment contribution levied under the Act will be in the nature of a tax on land falling under Entry 49 of List II (State List) of Seventh Schedule to the Constitution of India. A tax levied under the constitution will have to be based on some principles laid down in the law itself. It is, therefore, necessary to indicate the principles on the basis of which the betterment contribution is imposed. The basic contribution as also the special benefit contribution will have to be levied on the basis of the principles laid down in the Act. Betterment contributions are normally levied when the value of any land increases consequent upon any work undertaken by the State. In urban areas when improvement schemes are effected by a municipal body or improvement trust, provision is usually made for levy of a 'Betterment fee' which will be a proportion of increase in the market value due to the execution of the improvement scheme. Similarly, when an irrigation work is executed and water is made available, a tax can be levied as 'betterment contribution' taking into consideration the increase in value of lands in question.

It may be possible to provide for a levy of betterment contribution at a specified rate subject to the condition that it should not, in any case, exceed the increase in the market value of the land benefitted by the work undertaken by Government. When such a provision is made, the authority determining the contribution payable, may itself determine whether the contribution is within the scope of the condition relating to the increase in value, or provision may be made requiring the party concerned to move the appropriate authority to fix the contribution in the light of the actual increase in value. Since the contribution is relatable to the increase in market value of the land, provision may have to be made to enable the persons concerned to have the question finally determined by a court of law. If, provisions on these lines are made in the Act, it may be possible to sustain the validity of the levy".

The Law Department also desired that in view of several writ petitions pending in the High Court the Advocate General might be consulted before finalising the proposed amendment bill.

However, a draft amendment bill was prepared in pursuance of the above opinion of the Law Department and was discussed with the Chief Minister on 6-10-65

when the Secretary, Law Department, Joint Secretary, Law Department and the Chief Engineer (Irrigation Projects) were present. The Chief Minister desired that the draft bill be shown to the Advocate General and finalised. In view of the above the subject was further discussed with the Advocate General on 7-10-65 and on 11-10-1965 when the Secretary, Law Department, Joint Secretary, Law Department and the Deputy Secretary, Finance Department were also present. The Advocate General expressed doubts regarding possibilities of sustaining certain provisions made in the draft amendment bill and suggested certain changes in the provisions made for levy of Betterment Contribution to be in conformity with the Constitution of India.

The draft bill in pursuance of the discussions and the above suggestion of the Advocate General has been prepared and further scrutinised in a meeting held on 12-10-1965 at Advocate General's Residence and was finalised incorporating the suggestion made by the Advocate General.

In his letter dated 13-10-1965 addressed to the Joint Secretary, Law Department, the Advocate General, on perusal of the draft Bill placed before him has opined as follows:-

"Section 4 provides that the contribution shall be, where the land is or has been benefitted by:

(i) a major irrigation work or a medium irrigation works. Rs. 500 per acre.

(ii) a minor irrigation work. Rs. 400 per acre.

Sub-section (2)(b) provided for the rate of special benefit contribution.

Sub-section (4) provided for an enquiry to be made by the Betterment Levy Officer after a notification under sub-section (2) of section 3 and to determine the amount of contribution payable in respect of different lands. Under sub-section (5) provision is made for appeal.

The other provisions relate to the mode of payment.

The provisions of the amended Act and the levy thereunder have been challenged in some writ petitions now pending in our High Court. The ground of challenge mainly is that the provisions are violative of Fundamental Rights under Article 19(1)(f), in so far as the restrictions are wholly unreasonable. The procedure for fixing the betterment levy is also illusory. If, according to the contention, the Notification states under section 3(2) that certain lands are benefitted by such irrigation work, then the enquiry officer under section 4(4) has nothing to inquire except to multiply the acreage of the land by 500 or 400 as the case may be. Further, according to the contention this fixation of 500 or 400 is arbitrary and has no relevance to the increase in value of the land on account of the construction of the work, for which alone the betterment levy is sought to be levied. It was also urged

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that in some cases, the increase in the value of the land is very much less than Rs. 400/- per acre and on that ground the act is confiscatory in nature. These are the several objections which were urged against the validity of the Travancore-Cochin Land Tax Act 1955, (as amended by Act X of 1957). The Supreme Court upheld some of these objections and held that the Act was confiscatory in nature, that the levy was discriminatory and offended Article 14 of the Constitution and finally the Supreme Court struck down the act as unconstitutional. In that Act State wanted to levy a tax at a flat rate of Rs. 2/- per acre. Evidence was given that the petitioner before the Supreme Court who owned more than 25,000 acres of forest land and who had on that account to pay a tax of Rs. 50,000/- per year was deriving income from the said forest lands not more than 3,100 per year. This according to their Lordships, was sufficient to indicate among other reasons that the act was confiscatory. It was also urged and that contention was accepted by the Supreme Court that the levy at a flat rate of Rs. 2/- per acre on all lands irrespective of their basic difference would be eqully discriminatory. But it is equally well-settled that in taxing statute the State need not proceed to differentiate with mathematical exactitude the different objects of the statute and wide discretion is given to the Legislature to classify and differentiate, provided that such classification or differentiation has a rational basis and that basis is relevant for the purpose of achieving the object of taxation. Applying these well-known principles and in the light of the judgement of the Supreme Court in (1961) Supreme Court 552 referred to above, I should think that the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 as amended by Mysore Act VIII of 1964, in so far as it relates to levy of betterment contribution is open to objection.

A provision that should be made must take note of the difference in rise of valuc in different lands.

The aggrieved party should have an opportunity to raise objections if any as to the levy of betterment contribution. This opportunity to raise objection may be given at one stage or at two stages, at one stage, when a notification is made that the lands are benefitted by such irrigation work; at a later stage when the amount of contribution is determined. Both these stages may be combined and opportunities may be given to raise objections on both grounds.

A draft prepared has been placed before me. In Section 4 in the said draft opportunity is given to the land-holders whose lands are notified to be benefitted by the irrigation work to object to the inclusion of the lands as lands of any specified nature and the extent of irrigability and also in respect of the basis of the claim on which the betterment contribution is levied. Provision is also made for individual land-holders to be heard before betterment contribution is levied. The levy of contribution also is half the difference between the market price of the land prevailing before the commencement and after the completion of the work. Therefore, the levy cannot be said to be confiscatory.

The objections which might be urged against the constitutionality have been substantially met by these draft suggestions."

If litigation is to be avoided or kept at the minimum level, it appears, essential that the rate of betterment contribution should be as reasonably low as possible so that the land-holder should be dissuaded from resorting to the legal steps as such an attempt should appear to him a costly affair when compared to the payment of the rates already specified.

Another important point arising out of the opinion expressed by the Law Department relates to the method of imposition of this contribution. The existing provisions of the Act and also the decision taken by the Cabinet specify the imposition of the betterment contribution on the basis of the period for which the water is made available or the nature of the crops grown. The Law Department strongly feels that the betterment contribution should not have relation to quantum of water made available or the crops grown but on the other hand should have relation to the appreciation in the value of the land as a result of the construction of the projects benefiting the land. There should also be some provision enabling the landholder to seek redressal in a court of law if he feels aggrieved by the decision of the authorities determining the betterment contribution.

If it is agreed that the rate of betterment contribution should have a direct relationship to the rise in the value of land benefitted, then the point for consideration would be as to what part of such a rise should be the basis for determination of the rate. The Andhra Pradesh Government have, in their Act, limited the betterment contribution to 50% of the rise in the value of the land benefitted. We may also accept the same principle. The relevant provision of law obtaining in Andhra Pradesh is contained in Annexure I.

If the above suggestions are acceptable then the draft amendment Bill incorporating the various suggestions made and consequential amendment to other sections of the Act is also commended for approval of the Cabinet.

The points for consideration of the Cabinet are as under:-

1) Whether there should be only one kind of Betterment Contribution instead of the existing provision of levying basic betterment contribution and the special benefit contribution.

2) Whether the Betterment Contribution may be fixed as follows:-

> The amount of betterment contribution payable in respect of any land referred to in Section 3 shall be an amount equal to one-half of the difference between the market

value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration:

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre.

Provided further that no betterment contribution shall be leviable in respect of any land. -

(i) which is unarable (kharab); or

(ii) benefitted by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu, which is not capable of irrigating more than one hundred acres of land:

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

3) Whether the draft amendment bill as proposed be approved.

It may be submitted that if these proposals are to be given effect to during the year 1965-66, the amendment will have to be passed by the Legislature during the current session.

Sd/- Chandappa
(CHANDAPPA PATEL) 19/10/65
Secretary to Government,
Public Works & Electricity Deptt.

rlm. Contains further proposal

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SUPPLEMENTARY CABINET NOTE.

Kind attention is invited to the Cabinet Agenda Note on subject No. C.266/65 " Levy of Water Rates and Betterment Contribution". The subject was discussed by the Cabinet in its meeting held on 19th October 1965 and the file was returned with the following observation:-

> "This subject was discussed inconclusively in the Cabinet to-day. Minister for P.W.D. was requested to d iscuss this matter further with Secretary, Law Department and Secretary, PWD".
>
> Intd/-
> (K.B.)
> CS 20-10-1965.

Accordingly the subject was discussed in a meeting held in the chambers of the Minister for Public Works & Power on 25th October 1965 which was attended by the Joint Secretary, Law Department and the Secretary, P.W.D. The Minister for Public Works & Power desired that the subject be discussed in a meeting of the Divisional Commissioners and their recommendations placed before the Government for consideration. A detailed note indicating the implications of the draft amendment suggested earlier for consideration o f the Cabinet was prepared and circulated among the Divisional Commissioners and the Chief Engineers. The subject was discussed by the Divisional Commissioners and the Chief Engineers in a meeting convened in the chambers of the Chief Secretary on 25th November 1965. The Development Commissioner, the Secretary, Finance Department and the Joint Secretary, Law Department also took part in the discussions. The committee have made the following recommendations:-

(1). Draft amendment to the Section 4:- The draft as prepared may remain;

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(2) Section 4(iii):- The publication be made in the Chavadi and the office of the Tahsildar. It is not necessary to publish the same in the official gazette.

(3) Section 4 (vi and vii):- The appeal may lie with the Deputy Commissioner or the Special Deputy Commissioner instead of with the Civil Judge. Provision may also be made for Revisional petition to the Revenue Appellate Tribunal.

(4) Section 5(a):- The words " by the completion of the construction" may be substituted by the words " by supply of water due to"

In the light of the above recommendations, draft amendment to the levy of Water rates and Betterment Contribution has been suitably revised which is placed before the Cabinet for favour of consideration and approval.

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) BILL, 1966.

A Bill to further amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

BE it enacted by the Mysore State Legislature in the Seventeenth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1966.

(2) It shall be deemed to have come into force on the first day of September 1960

2. Amendment of section 2.- In section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1958) (hereinafter referred to as the principal Act), -

1) in clause (ba), for the words "basic contribution and special benefit contribution", the words "betterment contribution" shall be substituted;

(2) clauses (fa), (fb) and (fc) shall be omitted.

3. Amendment of section.3.- In section 3 of the principal Act, -

1) in sub-section (1), for the words and figure "at the rates specified in section 4 in accordance with the provisions of this Act on land, which in the opinion of the prescribed officer, is benefited". the words "in accordance with the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

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4. Substitution of new section for section 4.- For section 4 of the principal Act, the following section shall be substituted, namely:-

"4. Amount of betterment contribution.- (1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration;

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre:

Provided further that no betterment contribution shallbe leviable in respect of any land, -

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige which is not capable of irrigating more acres

with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The Statement so prepared along with a public notice shall be published in the village chavadi and the Taluk office and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state -

(a) their objections, -

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability; and

(b) in respect of payment of betterment contributions, the basis on which they claim that the amount of betterment contribution has to be computed

Such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf who resides within the revenue district on which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being heard to every person who has made a statement under sub-section (3), make an order specifying,—

(a) the increase in ~~value~~ value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work:

(b) the amount of betterment contribution payable in respect of the said lands:

and

(c) the date from which such betterment contribution shall be payable.

(6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the Court of the Civil Judge having jurisdiction over the area in which the land is situated; and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) And order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to the questioned in any Court of Law."

5. Amendment of section 5.- In section 5 of the princ-[illegible],

GOVERNMENT OF MYSORE

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No. ~~LAW 37 xxxxxxxxxxxxxxxx~~

Draft

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,

Dated, Bangalore, 24 Feb. 1966.

From

The *Secretary to the Government of Mysore,*
LAW DEPARTMENT.

The Secretary,
Mysore Legislative Assembly,
Bangalore.

Subject:- The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966.

Sir,

I am directed to forward herewith three copies of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966, to be introduced in the Mysore Legislative Assembly and to request that the Speaker may kindly be moved under Rule 64 of the Rules of Procedure and Conduct of Business in the Legislative Assembly to order the publication of the Bill with Statement of Objects and Reasons as also the Annexure in the Mysore Gazette to enable the Members to study the Bill and send amendments, if any, in advance.

Yours faithfully,

(R. Sanjeevalu)
Secretary to Government,
Law Department.

Copy to -

The Secretary to Government, Public Works Department

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) BILL, 1966.

A Bill further to amend the Mysore Irrigation Levy of Betterment Contribution and Water Rate) Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Seventeenth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1966.

(2) It shall be deemed to have come into force on the first day of September 1960.

2. *Amendment of section 2.*—In section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1957) (hereinafter referred to as the principal Act),—

(1) in clause (*ba*), for the words "basic contribution and special benefit contribution", the words "betterment contribution" shall be substituted;

(2) clauses (*fa*), (*fb*) and (*fc*) shall be omitted.

3. *Amendment of section 3.*—In section 3 of the principal Act,—

(1) in sub-section (1), for the words and figure "at the rates specified in section 4 in accordance with the provisions of this Act on land, which in the opinion of the prescribed officer, is benefited", the words "in accordance

ith the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted;

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

4. *Substitution of new section for section* 4.—For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. *Amount of betterment contribution.*—(1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amout equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration:

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre:

Provided further that no betterment contribution shall be leviable in respect of any land,—

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu, which is not capable of irrigating more than one hundred acres of land:

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) of section 3 in respect

of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The statement so prepared along with a public notice shall be published in the village chavadi and the taluk office and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state—

(*a*) their objections,—

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability; and

(*b*) in respect of payment of betterment contributions, the basis on which they claim that the amount of betterment contribution has to be computed.

Such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenue district in which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being heard to every person who has made a statement under sub-section (3), make an order specifying—

(*a*) the increase in value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work ;

(*b*) the amount of betterment contribution payable in respect of the said lands ; and

(*c*) the date from which such betterment contribution shall be payable.

(6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the Court of the Civil Judge having jurisdiction over the area in which the land is situated and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) Any order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to be questioned in any court of law."

5. *Amendment of section* 5.—In section 5 of the principal Act,—

(1) in sub-section (1), for the words "basic contribution", the word "contribution" shall be substituted, and at the end of the sub-section, the following proviso shall be added, namely ;—

"Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final";

(2) in sub-section (2), for the words "basic contribution", the word "contribution" shall be substituted:

(3) sub-section (3) shall be omitted.

6. *Amendment of section* 6.—In section 6 of the principal Act, for the words "basic contribution", wherever they occur, the word "contribution" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 as amended by Act No. 8 of 1964) provides for the levy and collection of betterment contribution at certain specified rates in respect of lands benefited by different irrigation works. It is considered that the levy should be related to increase in the value of the lands benefited, and hence it is proposed to amend sections 3 and 4.

S. NIJALINGAPPA.

ANNEXURE

EXTRACTS FROM THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) ACT, 1957.

* * * * *

2. *Definitions.*—In this Act, unless the context otherwise requiries—

(*a*) 'Depuy Commissioner' means the Deputy Commissioner of a District or such other officer not below the rank of an Assistant Commissioner as the Government may appoint to discharge the functions of the Deputy Commissioner under this Act;

(*b*) 'Betterment Levy Officer' means such officer as the Government may appoint to be the Betterment Levy Officer in respect of any area or irrigation work;

(*ba*) 'contribution' means the tax payable as basic contribution and special benefit contribution under sections 3 and 4;

(*c*) 'drainage work' includes—

(i) channels, whether natural or artificial, for the discharge of waste or surplus water and all works connected with and auxiliary to such channels;

(ii) the escape channels from an irrigation work;

(iii) dams, weirs, embankments, sluice and groynes;

(iv) all works for the protection of lands from floods or from erosion, which are owned or controlled by the Government, but does not include works for the removal of sewage;

(*d*) 'Government' means the State Government;

(*e*) 'irrigation work' includes:—

(i) all canals, channels, tanks, wells, reservoirs, anicuts, bandharas, ponds, spring ponds, kuntas, talapariges and madugus used for the supply or storage of water, and all works, embankments and structures, installations, including the installation of a pumping set, supply and escape channels connected therewith or auxiliary thereto which are owned or controlled by the Government;

(ii) all such lakes and other natural collections of water or parts thereof as are situated on lands which are the property of the Government;

(iii) all natural waterways, rivers and streams or parts thereof;

(*f*) 'landholder' or 'holder' signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person or for a class of persons or for the public and includes a mortgagee vested with a right to possession:

Provided that in respect of any land in the possession of a walawargadar, kayamgenidar, a permanent tenant or a mulgeni tenant in the South Kanara District, such walawargadar, kayamgenidar, permanent tenant or mulgeni tenant, as the case may be, shall be deemed to be the landholder in respect of such land;

(*fa*) 'major irrigation work' means an irrigation work costing more than rupees five crores;

(*fb*) 'medium irrigation work' means an irrigation work other than a minor irrigation work costing more than rupees ten lakhs and not more than rupees five crores;

(*fc*) 'minor irrigation work' means a tank or other reservoir (including the canals, channels, embankments, structures and installations connected therewith or auxiliary thereto) costing in respect of construction, restoration, expansion or alteration, more than rupees one lakh which is or has been declared by the Government or the prescribed officer to be capable of irrigating not more than one thousand acres of land;

(*g*) 'notification' means a notification published in the official Gazette;

(*h*) 'prescribed' means prescribed by rules made under this Act;

(*ha*) 'prescribed officer' means the officer specified in rules made under this Act and different officers may be specified for different areas, irrigation works or purposes;

(i) 'work' means an irrigation or drainage work whether completed or not.

3. *Levy of betterment contribution.*—(1) There shall be levied a tax called betterment contribution, at the rates specified in section 4 in accordance with the provisions of this Act on land, which, in the opinion of the prescribed officer, is benefited by the construction, restoration, expansion or alteration of any work by the Government, whether after the commencement of this Act or at any time before such commencement, but not earlier than—

(i) the first January 1944 in the Mysore Area

(ii) the first January 1947 in the Madras Area

(iii) the first August 1947 in the Hyderabad Area; and

(iv) the first January 1950 in the Bombay Area and the Coorg District.

Explanation I.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided such non-enjoyment is due solely to action or inaction on the part of that person or persons interested in such land.

Explanation II.—A land shall not be deemed to be benefited merely by reason of the execution of ordinary repairs, and maintenance of an existing work wholly or partly at the expense of Government.

Explanation III.—In this sub-section, the expression "Government" shall be deemed to include the authority established under section 66 of the Andhra State Act, 1953 (Central Act 30 of 1953).

(2) For the purpose of levy of betterment contribution, the prescribed officer shall, by notification, specify—

(i) the dates of commencement and completion of the construction, restoration, expansion or alteration of any irrigation work;

(ii) the nature of the irrigation work, whether major irrigation work, medium irrigation work or minor irrigation work; and

(iii) the lands which, in his opinion, are benefited by such irrigation work;

and different dates of commencement and completion of any irrigation work may be specified in respect of different lands benefited by the same irrigation work depending upon the dates on which water is made available to such lands.

(3) The Government may either *suo motu* or on application by any landholder affected by a notification issued under sub-section (2), if satisfied that there is any error in any such notification, direct such modification of the notification as it deems fit and the notification shall be modified accordingly by the prescribed officer.

4. *Amount of contribution payable.*—(1) The amount of contribution payable in respect of lands specified under section 3 shall consist of a basic contribution and a special benefit contribution payable at the rates specified in sub-section (2).

(2)(*a*) The rate of basic contribution shall be, where the land is, or has been, benefited by—

(i) a major irrigation work or medium irrigation work, rupees five hundred per acre; and

(ii) a minor irrigation work, rupees four hundred per acre.

(b) The rate of special benefit contribution shall be, where water is made available or is available from the work for the land,—

(i) for not less than eight months in a year, rupees twenty-five per acre per annum; and

(ii) for not less than three months but less than eight months in a year, rupees twelve and a half per acre per annum.

(3) (*a*) The basic contribution shall be payable by the landholder in accordance with the provisions of section 6.

(*b*) The special benefit contribution shall be payable by the landholder for a period of twenty years in respect of the benefited land and the said contribution payable in respect of any year shall be paid in the following year.

(4) After the issue of a notification under sub-section (2) of section 3,

(*a*) the Betterment Levy Officer shall, after making such enquiry, if any, as he considers necessary, by order determine, the amount of basic contribution payable in respect of different lands;

(*b*) the Tahsildar shall, after making such enquiry, if any, as he considers necessary, by order determine, every year, the amount of special benefit contribution payable in respect of different lands.

(5) (*a*) Any person aggrieved by an order made under clause (*a*) of sub-section (4) may, within sixty days from the date of the order, appeal to the Deputy Commissioner, whose decision thereon shall be final and shall not be liable to be questioned in any court of law.

(*b*) Any person aggrieved by an order made under clause (*b*) of sub-section (4) may, within thirty days from the date of the order, appeal to the Assistant Commissioner of the Revenue Sub-Division, whose decision thereon shall be final and shall not be liable to be questioned in any court of law.

5. *When contribution becomes payable.*—(1) The basic contribution shall become payable under this Act on a written notice of demand therefor issued by the Betterment Levy Officer being served on the landholder.

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than the landholder, who has an interest in the land or on a successor-in-interest of the landholder or in respect of any instalment of the basic contribution.

(3) The special benefit contribution payable for any year shall become payable when the land revenue due on such land for that year becomes payable and shall be paid along with such land revenue in the same manner as such land revenue is payable.

6. *Mode of payment of contribution.*—(1) The land holder of any land, in respect of which any basic contribution is payable, shall pay it in the manner prescribed either by surrendering to the Government a portion of his land

the value whereof is equal to the amount of basic contribution or in cash, or partly by surrendering land and partly in cash.

(2) Where the landholder chooses to pay the whole or part of the basic contribution by surrendering land, the surrender shall be subject to the following conditions :—

(*a*) the value of the land offered for surrender shall, for the purpose of payment of contribution, be determined by the Deputy Commissioner in the prescribed manner ;

(*b*) the owner of the land shall prove to the satisfaction of the Deputy Commissioner that such land is free from all encumbrances ; the Deputy Commissioner shall notify the proposed surrender and invite objections in such manner and within such period as may be prescribed ; if any objection is received and the Deputy Commissioner is satisfied that the land is not free from encumbrance, he shall refuse to accept the surrender and shall recover the contribution in cash ; if no objection is received and the Deputy Commissioner is satisfied that the land is free from encumbrance, he shall by order in writing accept the surrender and after such acceptance, the land shall vest in the Government free from all encumbrances and the Government may dispose of it in such manner as it deems fit :

Provided that the Deputy Commissioner may on the ground of inaccessibility or inconvenient location of the land or such other grounds as may be prescribed refuse to accept the surrender.

(3) The Government may by general or special order direct that in respect of any work, or class of cases the contribution shall be payable only in cash and not by surrendering land.

(4) Where the contribution is payable in cash, it shall be payable in such number of annual instalments not exceeding twenty and at such times as may be prescribed :

Provided that if, on or before the date on which the first instalment is payable, or at any subsequent date within a period of two years from that date, the owner pays the entire contribution or the balance of contribution, as the case may be, he shall be entitled to a rebate of ten per cent of such contribution or balance of contribution, as the case may be :

Provided further that if the amount of contribution falls into arrears, interest shall be payable at the prescribed rate on the amount of such arrears.

Reg. No. B.G. 202.

The Mysore Gazette

PUBLISHED BY AUTHORITY

(EXTRAORDINARY)

PART IV—2A

BANGALORE, THURSDAY 24th FEBRUARY 1966 (PHALGUNA 5, SAKA ERA 1887). | No. 31

LEGISLATURE SECRETARIAT

NOTIFICATION.

No. 18589/L. A , Bangalore, dated 24th February 1966.

Under Rule 64 of the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly, the Speaker has been pleased to order the publication in the *Mysore Gazette* of the **Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966** together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information.

with the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted;

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

4. *Substitution of new section for section* 4.—For section 4 of the principal Act, the following section shall be substituted, namely :—

"4. *Amount of betterment contribution.*—(1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration :

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre :

Provided further that no betterment contribution shall be leviable in respect of any land,—

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu, which is not capable of irrigating more than one hundred acres of land :

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) of section 3 in respect

of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The statement so prepared along with a public notice shall be published in the village chavadi and the taluk office and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state—

(a) their objections,—

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability; and

(b) in respect of payment of betterment contributions, the basis on which they claim that the amount of betterment contribution has to be computed.

Such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenue district in which the land is situate. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being heard to every person who has made a statement under sub-section (3), make an order specifying—

(*a*) the increase in value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work ;

(*b*) the amount of betterment contribution payable in respect of the said lands ; and

(*c*) the date from which such betterment contribution shall be payable.

6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the Court of the Civil Judge having jurisdiction over the area in which the land is situated and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) Any order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to be questioned in any court of law."

5. *Amendment of section* 5.—In section 5 of the principal Act,—

(1) in sub-section (1), for the words " basic contribution ", the word " contribution " shall be substituted, and at the end of the sub-section, the following proviso shall be added, namely ;

"Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final";

(2) in sub-section (2), for the words "basic contribution", the word "contribution" shall be substituted;

(3) sub-section (3) shall be omitted.

6. *Amendment of section* 6.—In section 6 of the principal Act, for the words "basic contribution", wherever they occur, the word "contribution" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 as amended by Act No. 8 of 1964) provides for the levy and collection of betterment contribution at certain specified rates in respect of lands benefited by different irrigation works. It is considered that the levy should be related to increase in the value of the lands benefited, and hence it is proposed to amend sections 3 and 4.

S. NIJALINGAPPA.

TE. HANUMANTHAPPA,
Secretary.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bhoma.

ANNEXURE

EXTRACTS FROM THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) ACT, 1957.

* * * * *

2. *Definitions.*—In this Act, unless the context otherwise requiries—

(*a*) 'Deputy Commissioner' means the Deputy Commissioner of a District or such other officer not below the rank of an Assistant Commissioner as the Government may appoint to discharge the functions of the Deputy Commissioner under this Act;

(*b*) 'Betterment Levy Officer' means such officer as the Government may appoint to be the Betterment Levy Officer in respect of any area or irrigation work;

(*ba*) 'contribution' means the tax payable as basic contribution and special benefit contribution under sections 3 and 4;

(*c*) 'drainage work' includes—

(i) channels, whether natural or artificial, for the discharge of waste or surplus water and all works connected with and auxiliary to such channels;

(ii) the escape channels from an irrigation work;

(iii) dams, weirs, embankments, sluice and groynes;

(iv) all works for the protection of lands from floods or from erosion, which are owned or controlled by the Government, but does not include works for the removal of sewage;

(*d*) 'Government' means the State Government;

(*e*) 'irrigation work' includes:—

(i) all canals, channels, tanks, wells, reservoirs, anicuts, bandharus, ponds, spring ponds, kunias, taliparigas and madugus used for the supply or storage of water, and all works, embankments and structures, installations, including the installation of a pumping set, supply and escape channels connected therewith or auxiliary thereto which are owned or controlled by the Government;

(ii) all such lakes and other natural collections of water or parts thereof as are situated on lands which are the property of the Government;

(iii) all natural waterways, rivers and streams or parts thereof;

(*f*) 'landholder' or 'holder' signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly jointly for another person or for a class of persons or for the public and includes a mortgagee vested with a right to possession:

Provided that in respect of any land in the possession of a waliwargidar, kayamgenidar, a permanent tenant or a mulgeni tenant in the South Kanara District, such waliwargidar, kayamgenidar, permanent tenant or mulgeni tenant, as the case may be, shall be deemed to be the landholder in respect of such land;

(*g*) 'major irrigation work' means an irrigation work costing more than rupees five crores;

(*h*) 'medium irrigation work' means an irrigation work other than a minor irrigation work costing more than rupees ten lakhs and not more than rupees five crores;

(*fc*) 'minor irrigation work' means a tank or other reservoir (including the canals, channels, embankments, structures and installations connected therewith or auxiliary thereto) costing in respect of construction, restoration, expansion or alteration, more than rupees one lakh which is or has been declared by the Government or the prescribed officer to be capable of irrigating not more than one thousand acres of land;

(*g*) 'notification' means a notification published in the official Gazette;

(*h*) 'prescribed' means prescribed by rules made under this Act;

(*ha*) 'prescribed officer' means the officer specified in rules made under this Act and different officers may be specified for different areas, irrigation works or purposes;

(i) 'work' means an irrigation or drainage work whether completed or not.

3. *Levy of betterment contribution.*—(1) There shall be levied a tax called betterment contribution, at the rates specified in section 4 in accordance with the provisions of this Act on land, which, in the opinion of the prescribed officer, is benefited by the construction, restoration, expansion or alteration of any work by the Government, whether after the commencement of this Act or at any time before such commencement, but not earlier than—

(i) the first January 1944 in the Mysore Area;

(ii) the first January 1947 in the Madras Area:

(iii) the first August 1947 in the Hyderabad Area; and

(iv) the first January 1950 in the Bombay Area and the Coorg District.

Explanation I.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided such non-enjoyment is due solely to action or inaction on the part of that person or persons interested in such land.

Explanation II.—A land shall not be deemed to be benefited merely by reason of the execution of ordinary repairs, and maintenance of an existing work wholly or partly at the expense of Government.

Explanation III.—In this sub-section, the expression "Government" shall be deemed to include the authority established under section 66 of the Andhra State Act, 1953 (Central Act 30 of 1953).

(2) For the purpose of levy of betterment contribution, the prescribed officer shall, by notification, specify—

(i) the dates of commencement and completion of the construction, restoration, expansion or alteration of any irrigation work;

(ii) the nature of the irrigation work, whether major irrigation work, medium irrigation work or minor irrigation work; and

(iii) the lands which, in his opinion, are benefited by such irrigation work;

and different dates of commencement and completion of any irrigation work may be specified in respect of different lands benefited by the same irrigation work depending upon the dates on which water is made available to such lands.

(3) The Government may either *suo motu* or on application by any landholder affected by a notification issued under sub-section (2), if satisfied that there is any error in any such notification, direct such modification of the notification as it deems fit and the notification shall be modified accordingly by the prescribed officer.

4. *Amount of contribution payable.*—(1) The amount of contribution payable in respect of lands specified under section 3 shall consist of a basic contribution and a special benefit contribution payable at the rates specified in sub-section (2).

(2)(*a*) The rate of basic contribution shall be, where the land is, or has been, benefited by—

(i) a major irrigation work or medium irrigation work, rupees five hundred per acre; and

(ii) a minor irrigation work, rupees four hundred per acre.

(*b*) The rate of special benefit contribution shall be, where water is made available or is available from the work for the land,—

(i) for not less than eight months in a year, rupees twenty-five per acre per annum; and

(ii) for not less than three months but less than eight months in a year, rupees twelve and a half per acre per annum.

(3) (*a*) The basic contribution shall be payable by the landholder in accordance with the provisions of section 6.

(*b*) The special benefit contribution shall be payable by the landholder for a period of twenty years in respect of the benefited land and the said contribution payable in respect of any year shall be paid in the following year.

(4) After the issue of a notification under sub-section (2) of section 3,

(*a*) the Betterment Levy Officer shall, after making such enquiry, if any, as he considers necessary, by order determine, the amount of basic contribution payable in respect of different lands;

(b) the Tahsildar shall, after making such enquiry, if any, as he considers necessary, by order determine, every year, the amount of special benefit contribution payable in respect of different lands.

(3) (a) Any person aggrieved by an order made under clause (a) of sub-section (2) may, within sixty days from the date of the order, appeal to the Deputy Commissioner, whose decision thereon shall be final and shall not be liable to be questioned in any court of law.

(b) Any person aggrieved by an order made under clause (b) of sub-section (2) may, within thirty days from the date of the order, appeal to the Assistant Commissioner of the Revenue Sub-Division, whose decision thereon shall be final and shall not be liable to be questioned in any court of law.

5. *When contribution becomes payable.*—(1) The basic contribution shall become payable under this Act on a written notice of demand therefor issued by the Betterment Levy Officer being served on the landholder.

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve a notice on any person other than the landholder, who has an interest in the land or on a successor-in-interest of the landholder or in respect of any instalment of the basic contribution.

(3) The special benefit contribution payable for any year shall become payable when the land revenue due on such land for that year becomes payable and shall be paid along with such land revenue in the same manner as such land revenue is payable.

6. *Mode of payment of contribution.*—(1) The landholder of any land, in respect of which any basic contribution is payable, shall pay it in the manner prescribed either by surrendering to the Government a portion of his land

the value whereof is equal to the amount of basic contribution or in cash, or partly by surrendering land and partly in cash.

(2) Where the landholder chooses to pay the whole or part of the basic contribution by surrendering land, the surrender shall be subject to the following conditions :—

(*a*) the value of the land offered for surrender shall, for the purpose of payment of contribution, be determined by the Deputy Commissioner in the prescribed manner ;

(*b*) the owner of the land shall prove to the satisfaction of the Deputy Commissioner that such land is free from all encumbrances ; the Deputy Commissioner shall notify the proposed surrender and invite objections in such manner and within such period as may be prescribed ; if any objection is received and the Deputy Commissioner is satisfied that the land is not free from encumbrance, he shall refuse to accept the surrender and shall recover the contribution in cash ; if no objection is received and the Deputy Commissioner is satisfied that the land is free from encumbrance, he shall by order in writing accept the surrender and after such acceptance, the land shall vest in the Government free from all encumbrances and the Government may dispose of it in such manner as it deems fit :

Provided that the Deputy Commissioner may on the ground of inaccessibility or inconvenient location of the land or such other grounds as may be prescribed refuse to accept the surrender.

(3) The Government may by general or special order direct that in respect of any work, or class of cases the contribution shall be payable only in cash and not by surrendering land.

(4) Where the contribution is payable in cash, it shall be payable in such number of annual instalments not exceeding twenty and at such times as may be prescribed :

MYSORE LEGISLATURE

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LEGISLATURE SECRETARIAT
VIDHANA SOUDHA
P. B. No. 74.

No. 195-76/L.A./L.C.
Encls.....

Bangalore-1, dated. 25.3.....1966.

FROM

THE SECRETARY,
MYSORE LEGISLATURE.

To

The Secretary to Government,
Law Department,
Bangalore-1.

MM 25/3/66

SIR,

JL 27/3/66

Sub: The Mysore Irrigation (Levy of Betterment Contribution and Water Rate)(Amendment) Bill, 1966.

I forward herewith for assent two copies of the Bill as passed by both Houses of the Legislature and signed by the Speaker, Legislative Assembly.

Yours faithfully,

Secretary,
Mysore Legislature.

GRR/-

108

(1-5)

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) BILL, 1966.

Bill further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Seventeenth Year of the Republic of India as follows:-

1. *Short title and commencement.*—(1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1966.

(2) It shall be deemed to have come into force on the first day of September 1960.

2. *Amendment of section* 2.—In section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1957) (hereinafter referred to as the principal Act),—

(1) in clause (*ba*), for the words "basic contribution and special benefit contribution", the words "betterment contribution" shall be substituted;

(2) clauses (*fa*), (*fb*) and (*fc*) shall be omitted.

3. *Amendment of section* 3.—In section 3 of the principal Act,—

(1) in sub-section (1), for the words and figure "at the rates specified in section 4 in accordance with the provisions of this Act on land, which in the opinion of the prescribed officer, is benefited", the words "in accordance with the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted;

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

4. *Substitution of new section for section* 4.—For section 4 of the principal Act, the following section shall be substituted, namely :—

"4. *Amount of betterment contribution.*—(1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration :

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre :

Provided further that no betterment contribution shall be leviable in respect of any land,—

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu, which is not capable of irrigating more than one hundred acres of land :

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) of section 3 in respect of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The statement so prepared along with a public notice shall be published in the village chavadi and the taluk office and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state—

(*a*) their objections,—

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability; and

(*b*) in respect of payment of betterment contributions, the basis on which they claim that the amount of betterment contribution has to be computed.

Such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenue district in which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being

heard to every person who has made a statement under sub-section (3), make an order specifying—

(*a*) the increase in value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work ;

(*b*) the amount of betterment contribution payable in respect of the said lands ; and

(*c*) the date from which such betterment contribution shall be payable.

(6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the Court of the Civil Judge having jurisdiction over the area in which the land is situated and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) Any order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final. and shall not be liable to be questioned in any court of law."

5. *Amendment of section* 5.—In section 5 of the principal Act,—

(1) in sub-section (1), for the words " basic contribution ", the word " contribution " shall be substituted, and at the end of the sub-section, the following proviso shall be added, namely ;—

" Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final " ;

(2) in sub-section (2). for the words " basic contribution ". the word " contribution " shall be substituted ;

(3) sub-section (3) shall be omitted.

6. *Amendment of section* 6.—In section 6 of the principal Act, for the words " basic contribution ", wherever they occur, the word " contribution " shall be substituted.

The Bill has been passed by both Houses of the Legislature.

I hereby certify that this Bill is a Money Bill within the meaning of article 199 *of the Constitution of India.*

B. Basavalingappa

SPEAKER,

25th *March* 1966. *Legislative Assembly.*

I assent to this Bill.

V. V. Giri

Dated 12th April, 1966. GOVERNOR OF MYSORE.

GOVERNMENT OF MYSORE

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Mysore Government Secretariat,
Vidhana Soudha,

No. LAW 9 LGH 66 Bangalore, dated 12th April 1966.

1310

NOTIFICATION.

Ordered that the Mysore Irrigation (Levy of Betterment
1966
[illegible]ibution and Water Rate) (Amendment) Bill, which received
the assent of the Governor on the twelfth day of
April 1966, be published as Mysore Act No. 13 of 1966
in the Mysore Gazette for general information.

***Here insert the enclosed matter.

To

1. The Compiler, Mysore Gazette for publication in Part IV, Section 2-B of the Mysore Gazette ~~Extraordinary~~ dated the 21st April 1966 in English and Kannada and for supply of spare copies in English and Kannada as per standing orders and 25 copies to Section VII Law Department.

2. The Chief Translator to Government.

Issued 13/4

110 C.

Mysore Act No. 13 of 1966. Twenty-first

(First published in the Mysore Gazette dated the ~~Fourteenth~~ day of April 1966)

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) ~~BILL~~ ACT, 1966.

(Received the assent of the Governor on the Twelfth day of April 1966)

An Act ~~A Bill~~ *further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.*

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Seventeenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1966.

(2) It shall be deemed to have come into force on the first day of September 1960.

2. *Amendment of section 2.*—In section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1957) (hereinafter referred to as the principal Act),—

(1) in clause (*ba*), for the words "basic contribution and special benefit contribution", the words "betterment contribution" shall be substituted;

(2) clauses (*fa*), (*fb*) and (*fc*) shall be omitted.

3. *Amendment of section 3.*—In section 3 of the principal Act,—

(1) in sub-section (1), for the words and figure "at the rates specified in section 4 in accordance with the provisions of this Act on land, which in the opinion of the prescribed officer, is benefited", the words "in accordance with the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted;

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

4. *Substitution of new section for section* 4.—For section 4 of the principal Act, the following section shall be substituted, namely :—

"4. *Amount of betterment contribution.*—(1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration :

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre :

Provided further that no betterment contribution shall be leviable in respect of any land,—

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu, which is not capable of irrigating more than one hundred acres of land :

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) of section 3 in respect of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The statement so prepared along with a public notice shall be published in the village chavadi and the taluk office and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state—

(*a*) their objections,—

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work ;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability : and

(*b*) in respect of payment of betterment contributions, the basis on which they claim that the amount of betterment contribution has to be computed.

Such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenue district in which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being

heard to every person who has made a statement under sub-section (3), make an order specifying—

(*a*) the increase in value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work;

(*b*) the amount of betterment contribution payable in respect of the said lands; and

(*c*) the date from which such betterment contribution shall be payable.

(6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the Court of the Civil Judge having jurisdiction over the area in which the land is situated and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) Any order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to be questioned in any court of law."

5. *Amendment of section* 5.—In section 5 of the principal Act,—

(1) in sub-section (1), for the words "basic contribution", the word "contribution" shall be substituted, and at the end of the sub-section, the following proviso shall be added, namely:—

"Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final";

(2) in sub-section (2), for the words "basic contribution", the word "contribution" shall be substituted;

(3) sub-section (3) shall be omitted.

6. *Amendment of section* 6.—In section 6 of the principal Act, for the words "basic contribution", wherever they occur, the word "contribution" shall be substituted.

~~*The Bill has been passed by both Houses of the Legislature.*~~

~~*I hereby certify that this Bill is a Money Bill within the meaning of article 199 of the Constitution of India.*~~

~~SPEAKER,~~

~~*March* 1966~~ *Legislative Assembly.*

By Order and in the name of the Governor of Mysore,

(R. Sanjeevalu)
Secretary to Government,
Law Department.

GOVERNMENT OF MYSORE

111

No LAW 9 LGN 66

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,

Dated, Bangalore 12th April *1966* .

13th

FROM

The *Secretary to the Government of Mysore,*
LAW DEPARTMENT.

To

The Secretary,
Mysore Legislature,
Bangalore.

Subject:- The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966.

Sir,

I am directed to state that the Bill noted above received the assent of the Governor on the 12th day of April, 1966, and is being published as Mysore Act No.13 of 1966 in Part IV - Section 2B of the Mysore Gazette dated 21st April 1966.

The duplicate authentic copy of the Bill with the Governor's assent signified therein is forwarded herewith. The receipt of the same may kindly be acknowledged.

Yours faithfully,

12/4 D/C

(R. Sanjeevalu)
Secretary to Government,
Law Department.

GOVERNMENT OF MYSORE

112

Mysore Government Secretariat,

No. LAW 9 LGN 66 *Bangalore, dated* 12th April *1966*

13/4

~~OFFICIAL~~ MEMORANDUM

Subject:- The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966.

The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966, received the assent of the Governor on the Twelfth day of April, 1966. It is being published as Mysore Act No.13 of 1966 in Part IV-Section 2B of the Mysore Gazette dated 21st April 1966.

For information.

13/4

(K.N. Gundappa)
Under Secretary to Government,
Law Department.

Public Works Department.

O/C

13/4

MYSORE LEGISLATURE

LEGISLATURE SECRETARIAT,
VIDHANA SOUDHA,
P.B. No. 74,
Bangalore-1, dated.15/4/...1966.

No..371...../L A/LC

FROM

THE SECRETARY,
MYSORE LEGISLATURE,
BANGALORE.

To

41/DSD
18-4-1966

THE SECRETARY TO GOVERNMENT,
LAW DEPARTMENT, BANGALORE.

Subject: **The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Bill, 1966**

SIR,

I acknowledge the receipt of your letter No LAW 9 LGN 66 dated 13.4.1966 along with its enclosure.

Yours faithfully,

Deputy ~~Under~~ *Secretary,*
Mysore Legislature.

GOVT. SECRETARIAT
No 208
16 APR 1966

WD 010536—GPB—500—10-2-62

GOVERNMENT OF MYSORE

LAW DEPARTMENT

114

(1-3)

MYSORE ACT No. 13 OF 1966.

(First published in the Mysore Gazette dated the Twenty-first day of April 1966).

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) (AMENDMENT) ACT, 1966.

(Received the assent of the Governor on the Twelfth day of April) 1966).

An Act further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

Whereas it is expedient further to amend the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957;

Be it enacted by the Mysore State Legislature in the Seventeenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1966.

(2) It shall be deemed to have come into force on the first day of September 1960.

2. *Amendment of section* 2.—In section 2 of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 (Mysore Act 28 of 1957) (herein after referred to as the principal Act),—

(1) in clause (*ba*), for the words "basic contribution and special benefit contribution", the words "betterment contribution" shall be substituted;

(2) clauses (*fa*), (*fb*) and (*fc*) shall be omitted

3. *Amendment of section* 3.—In section 3 of the principal Act,—

(1) in sub-section (1), for the words and figure "at the rates specified in section 4 in accordance with the provisions of this Act on land, which in the opinion of the prescribed officer, is benefited", the words "in accordance with the provisions of this Act from the landholder or the holder of any land which is benefited" shall be substituted;

(2) in sub-section (2), clauses (ii) and (iii) shall be omitted.

4. *Substitution of new section for section* 4.—For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. *Amount of betterment contribution.*—(1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration:

Provided that the amount of betterment contribution payable in respect of any land shall not be more than three hundred rupees per acre:

Provided further that no betterment contribution shall be leviable in respect of any land,—

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration, expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu, which is not capable of irrigating more than one hundred acres of land:

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) of section 3 in respect of any irrigation work, the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The statement so prepared along with a public notice shall be published in the village chavadi and the taluk office and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state—

(*a*) their objections,—

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability; and

(*b*) in respect of payment of betterment contributions, the basis on which they claim that the amount of betterment contribution has to be computed.

Such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenue district in which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being heard to every person who has made a statement under sub-section (3), make an order specifying—

(*a*) the increase in value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work;

(*b*) the amount of betterment contribution payable in respect of the said lands; and

(*c*) the date from which such betterment contribution shall be payable.

(6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the Court of the Civil Judge having jurisdiction over the area in which the land is situated and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) Any order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to be questioned in any court of law."

5. *Amendment of section* 5.—In section 5 of the principal Act,—

(1) in sub-section (1), for the words "basic contribution", the word "contribution" shall be substituted, and at the end of the sub-section, the following proviso shall be added, namely;—

> Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final";

(2) in sub-section (2), for the words " basic contribution ", the word " contribution " shall be substituted;

(3) sub-section (3) shall be omitted.

6. *Amendment of section* 6.—In section 6 of the principal Act, for the words " basic contribution ", wherever they occur, the word " contribution " shall be substituted.

By Order and in the name of the Governor of Mysore.

R. SANJEEVALU,
Secretary to Government,
Law Department.

WD 6646—GPB—2,958—29-4-66

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GOVERNMENT OF MYSORE

No. LAW 9 LGN 66

Mysore Government Secretariat,
'Vidhana Soudha'

Bangalore, dated the 23rd August 1966.

CORRIGENDUM

Subject: The Mysore Irrigation (Levy of Betterment Contribution and Water Rate) (Amendment) Act, 1966.

....

In the Mysore Gazette, Part IV, Section 2-B published on Thursday, the 21st April 1966, in line 8, for ~~the~~ "Bill," read Act,".

By order and in the name of the Governor of Mysore,

(M.L. RAMASWAMI.)
Deputy Secretary to Government,
Law Department.

To

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